

Proposed modifications can be found in Sections I(2)(b) and IV; and Parts 1.1.1; 2.2.11; and 7.1. Corresponding proposed modifications are shown in the "permit requirements" boxes in the fact sheet where modifications are proposed in the permit itself.

Proposed Modification to the 2017 Construction General Permit (CGP) – Fact Sheet

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I. Background

Congress passed the Federal Water Pollution Control Act of 1972 (Public Law 92-500, October 18, 1972) (hereinafter the "Clean Water Act" or "CWA"), 33 U.S.C. 1251 et seq., with the stated objectives to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA provides that "the discharge of any pollutant by any person shall be unlawful" except in compliance with other provisions of the statute. CWA section 301(a). 33 U.S.C. 1311. The CWA defines "discharge of a pollutant" broadly to include "any addition of any pollutant to navigable waters from any point source." CWA section 502(12). 33 U.S.C. 1362(12). EPA is authorized under CWA section 402(a) to issue a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of any pollutant from a point source. These NPDES permits are issued by EPA regional offices or NPDES-authorized state or tribal agencies. Since 1972, EPA and the authorized states have issued NPDES permits to thousands of dischargers, including industrial (e.g., manufacturing, energy and mining facilities) and municipal (e.g., sewage treatment plants) facilities. As required under Title III of the CWA, EPA has promulgated Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for many industrial point source categories, and these requirements must be incorporated into NPDES permits. 33 U.S.C. 1311(b). The Water Quality Act (WQA) of 1987 (Public Law 100-4, February 4, 1987) amended the CWA, adding CWA section 402(p), requiring implementation of a comprehensive program for addressing stormwater discharges. 33 U.S.C. 1342(p).

1. Clean Water Act Stormwater Program

Prior to the Water Quality Act of 1987, there were numerous questions regarding the appropriate means of regulating stormwater discharges within the NPDES program due to the serious water quality impacts of stormwater discharges, the variable nature of stormwater, and the large number of stormwater point sources. EPA undertook multiple regulatory actions in an attempt to address these unique discharges. Congress, with the addition of section 402(p), established a structured and phased approach to address stormwater discharges and fundamentally altered the way stormwater is addressed under the CWA as compared with other point source discharges of pollutants. Section 402(p)(1) created a temporary moratorium on NPDES permits for point source stormwater discharges, except for those listed in section 402(p)(2), including dischargers already required to have a permit and discharges associated with industrial activity. In 1990, pursuant to section 402(p)(4), EPA promulgated the Phase I stormwater regulations for those stormwater discharges listed in 402(p)(2). See 55 FR 47990 (November 16, 1990). The Phase I regulations required NPDES permit coverage for discharges associated with industrial activity and from "large" and "medium" municipal separate storm sewer systems (MS4s). CWA section 402(p)(2). As part of that rulemaking, EPA interpreted stormwater "discharges associated with industrial activity" to include stormwater discharges associated with "construction activity" as defined at 40 CFR 122.26(b)(14)(x). See 55 FR 48033-34. As described in the Phase I regulations, dischargers must obtain authorization to discharge (or "permit coverage"), including discharges associated with construction activity, including clearing, grading, and excavation, if the construction activity:

- will result in the disturbance of five acres or greater; or
- will result in the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or greater.

See 40 CFR 122.26(b)(14)(x) and (c)(1).

Section 402(p)(5) and (6) establishes a process for EPA to evaluate potential sources of stormwater discharges not included in the Phase I regulations and to designate discharges for

regulation in order to protect water quality. Section 402(p)(6) instructs EPA to "issue regulations...which designate stormwater discharges, other than those discharges described in [section 402(p)(2)], to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources." In 1999, pursuant to the broad discretion granted to the agency under section 402(p)(6), EPA promulgated the Phase II stormwater regulations that designated discharges associated with "small" construction activity and "small" MS4s. 64 FR 68722 (December 8, 1999). NPDES permit coverage is required for discharges associated with "small" construction activity, including clearing, grading, and excavation, if the construction activity:

- will result in land disturbance of equal to or greater than one acre and less than five acres; or
- will result in disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

See 40 CFR 122.26(b)(15).

EPA continues to have discretionary authority under section 402(p)(6) to designate additional stormwater discharges for regulation under the CWA in order to protect water quality. EPA has established an adjudicatory process for exercising discretion to designate and require NPDES permits for unregulated stormwater discharges. See 40 CFR 122.26(a)(9)(i)(C)-(D); see also *Env't Defense Ctr. v. EPA*, 344 F.3d 832, 873-76 (9th Cir. 2003).

2. NPDES Permits for Stormwater Discharges Associated With Construction Activity

The NPDES regulations provide two options for obtaining authorization to discharge or "permit coverage": general permits and individual permits. A brief description of these types of permits as they apply to construction and development (C&D) sites follows:

- a. General NPDES Permits.** The vast majority of discharges associated with construction activity are covered under NPDES general permits. EPA, states, and tribes use general permits to cover a group of similar dischargers under one permit. See 40 CFR 122.28. General permits simplify the process for dischargers to obtain authorization to discharge, provide permit requirements for any eligible discharger that files a Notice of Intent (NOI) to be covered, and reduce the administrative workload for NPDES permitting authorities. General permits, including the fact sheet describing the rationale for permit conditions, are issued by NPDES permitting authorities after an opportunity for public review of and comment on the proposed general permit. Typically, to obtain authorization to discharge under a construction general permit, a discharger (any operators of the construction site; typically, a developer, builder, and/or contractor) submits to the permitting authority an NOI to be covered under the general permit. An NOI is not a permit or a permit application (see *Texas Independent Producers and Royalty Owners Ass'n v. EPA*, 410 F.3d 964, 977-78 (7th Cir. 2005)), but by submitting the NOI, the discharger asserts and acknowledges that it is eligible for coverage under the general permit and that it agrees to the conditions in the published general permit. Discharges associated with the construction activity are authorized consistent with the terms and conditions established in the general permit.

After reviewing information regarding permit eligibility contained in the NOI, EPA, states and tribes may notify a construction site operator that it must, instead, apply for an individual permit if the permitting authority determines that the operator does not meet the eligibility conditions for coverage under the general permit. Examples of situations that might trigger such a determination are when the proposed discharges will not meet applicable water quality standards, or when they may adversely affect a Federally

listed threatened or endangered species. In some cases, the permitting authority may allow the operator to proceed with coverage under the general permit provided additional control measures designed to address the specific issue at hand are implemented.

- b. **EPA Construction General Permit (CGP).** Since 1992, EPA has issued a series of Construction General Permits (CGPs) that cover areas where EPA is the NPDES permitting authority. At present, EPA is the permitting authority in four states (~~Idaho~~, Massachusetts, New Hampshire, ~~and New Mexico~~, and Idaho, until July 1, 2021, which is the date Idaho becomes authorized to implement the NPDES Stormwater program), the District of Columbia, Puerto Rico and all other U.S. territories with the exception of the Virgin Islands, construction projects undertaken by Federal Operators in four states (Colorado, Delaware, Vermont, and Washington), most Indian Country lands and a couple of other specifically designated activities in specific states (e.g., *oil and gas activities in Texas and Oklahoma*). See Appendix B for a complete list of areas covered by EPA's CGP. The 2012 CGP became effective on February 16, 2012 (see 77 FR 12286), and expires at midnight on February 16, 2017. The 2017 CGP replaces the 2012 CGP.
- c. **Individual NPDES Permits.** A permitting authority may require any construction site to apply for an individual permit rather than using the general permit. Likewise, any discharger may apply to be covered under an individual permit rather than seek coverage under an otherwise applicable general permit. See 40 CFR 122.28(b)(3). Unlike a general permit, an individual permit is intended to be issued to one permittee, or a few co-permittees. Individual permits for stormwater discharges from construction sites are rarely used, but when they are, they are most often used for very large projects or projects located in sensitive watersheds. EPA estimates that less than one half of one percent (< 0.5%) of all construction sites in the country are covered under individual permits.

3. Technology-Based Effluent Limitations Guidelines and Standards in NPDES Permits

Effluent limitations guidelines (ELGs) and new source performance standards (NSPSs) are technology-based effluent limitations under CWA sections 301 and 306 for categories of point source discharges. These effluent limitations, which can be either numeric or non-numeric, along with water quality-based effluent limitations, if necessary, must be incorporated into NPDES permits, as appropriate. ELGs and NSPSs are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Title III of the CWA and summarized as follows:

- a. **Best Practicable Control Technology Currently Available (BPT).** The CWA requires EPA to specify BPT effluent limitations for conventional, toxic, and nonconventional pollutants. In doing so, EPA must determine what level of control is technologically available and economically practicable. CWA section 301(b)(1)(A). In specifying BPT, EPA must look at a number of factors. EPA considers the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application. The agency also considers the age of the equipment and facilities, the process employed and any required process changes, engineering aspects of the application of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. CWA section 304(b)(1)(B).
- b. **Best Available Technology Economically Achievable (BAT).** BAT effluent limitations are applicable to toxic (priority) and nonconventional pollutants. EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific pollutants have been designated priority toxic pollutants. See 40 CFR 401.15 and 40 CFR part 423,

Appendix A. In general, BAT represents the best available performance of facilities through application of the best control measures and practices economically achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives within the point source category. CWA section 304(b)(2)(A). The factors EPA considers in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the Administrator deems appropriate. CWA section 304(b)(2)(B).

- c. **Best Conventional Pollutant Control Technology (BCT).** The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing point sources. BCT is not an additional limitation, but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in CWA section 304(b)(4)(B), the Act requires that EPA establish BCT limitations after consideration of a two-part "cost-reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986. 51 FR 24974 (July 9, 1986). Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BODs), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. See 40 CFR 401.16. The Administrator has designated oil and grease as an additional conventional pollutant. 44 FR 44501 (July 30, 1979). CWA section 304(b)(4)(B).
- d. **Best Available Demonstrated Control Technology (BADT) for New Source Performance Standards (NSPS).** NSPS apply to all pollutants and reflect effluent reductions that are achievable based on the BADT. New sources, as defined in CWA section 306, have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology. In establishing NSPS, CWA section 306 directs EPA to take into consideration similar factors that EPA considers when establishing BAT, namely the cost of achieving the effluent reduction and any non-water quality, environmental impacts and energy requirements. CWA section 306(1)(B).

NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based ELGs established under Section 301 and, where applicable, any NSPS established under Section 306. Once an ELG or NSPS is promulgated in accordance with these sections, NPDES permits must incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national ELGs and/or NSPS, permitting authorities must establish and include in NPDES permits technology-based effluent limitations case-by-case based on their best professional judgment. See CWA section 402(a)(1)(B); 125.3(a)(2)(ii)(B).

4. EPA's Construction and Development Effluent Limitations Guidelines and New Source Performance Standards

On December 1, 2009, EPA promulgated ELGs and NSPSs to control the discharge of pollutants from construction sites. See 74 Fed. Reg. 62996, and 40 CFR 450.21. These requirements, known as the "Construction and Development Rule" or "C&D rule," became effective on February 1, 2010. Following the promulgation of the C&D rule in 2009, several parties filed petitions for review of the final rule, identifying potential deficiencies with the dataset that the EPA used to support its decision to adopt a numeric turbidity limitation as well

as other issues. On March 6, 2014, pursuant to a settlement agreement to resolve the litigation, EPA finalized amendments to the C&D rule that withdrew the numeric turbidity limitation and monitoring requirements, and also provided clarification regarding several other requirements of the rule. See 79 Fed. Reg. 12661 and 80 Fed. Reg. 25235. Because the 2017 CGP is being issued after the effective date of the 2014 C&D rule amendments, EPA must incorporate these requirements into this permit. Therefore, the 2017 CGP includes revisions that reflect the 2014 C&D rule amendments, as well as maintains existing changes that were made to the 2012 CGP to incorporate the other portions of C&D rule requirements not affected by the 2014 amendments. A summary of the C&D rule requirements is included in Section II below.

II. Summary of C&D Rule Requirements

The C&D rule requirements include non-numeric effluent limitations that apply to all permitted discharges from construction sites (40 CFR 450.21). The effluent limitations are structured to require construction operators to first prevent the discharge of sediment and other pollutants through the use of effective planning and erosion control measures; and second, to control discharges that do occur through the use of effective sediment control measures. Operators must implement a range of pollution control and prevention measures to limit or prevent discharges of pollutants, including those from dry weather discharges as well as wet weather (i.e., stormwater).

The non-numeric effluent limitations are designed to prevent the mobilization and stormwater discharge of sediment and sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize exposure of stormwater to construction materials, debris and other sources of pollutants on construction sites. In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants, such as nutrients, organics, pesticides, herbicides and metals that may be present naturally in the soil on construction sites, such as arsenic or selenium, or may have been contributed by previous activities on the site such as agriculture or industrial activity. These pollutants, once mobilized by rainfall and stormwater, can detach from the soil particles and become dissolved pollutants. Once dissolved, these pollutants would not be removed by down-slope sediment controls. Source control through minimization of soil erosion is therefore the most effective way of controlling the discharge of these pollutants.

The C&D rule's non-numeric effluent limits are as follows (see 40 CFR 450.21):

1. Erosion and Sediment Controls

Operators must design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:

- a. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;
- b. Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points;
- c. Minimize the amount of soil exposed during construction activity;
- d. Minimize the disturbance of steep slopes;
- e. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater discharge, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

- f. Provide and maintain natural buffers around waters of the United States, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;
- g. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and
- h. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

2. Soil Stabilization Requirements

Operators must, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

3. Dewatering Requirements

Operators must minimize the discharge of pollutants from dewatering trenches and excavations. Discharges are prohibited unless managed by appropriate controls.

4. Pollution Prevention Measures

Operators must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

- a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
- b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and
- c. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

5. Prohibited Discharges

The following discharges from C&D sites are prohibited:

- a. Wastewater from washout of concrete, unless managed by an appropriate control;
- b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

- c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
- d. Soaps or solvents used in vehicle and equipment washing.

6. Surface Outlets

When discharging from basins and impoundments, operators must utilize outlet structures that withdraw water from the surface, unless infeasible.

This fact sheet discusses in the sections below how EPA has incorporated these requirements into its 2017 CGP. The discussion will include a summary of each provision and the agency's rationale for articulating the provision in this way. EPA notes that most of the 2012 CGP's provisions are retained in the 2017 CGP.

III. Summary of Significant Changes to the 2017 CGP

The permit includes several new or modified requirements. The following summarizes the significant changes to the 2017 CGP.

1. Streamlining of the Permit

EPA streamlined and simplified language throughout the CGP to present requirements in a generally more clear and readable manner. This structure should enhance operators' understanding of and compliance with the permit's requirements. For example, EPA moved language that was not necessary in the permit into the relevant appendix or to the fact sheet. Although the permit has been streamlined from prior permits, many of the requirements remain unchanged.

2. Types of Discharges Authorized

The permit clarifies that stormwater discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining are eligible for coverage under the CGP.

The 2017 CGP, like the 2012 CGP, authorizes several non-stormwater discharges in Part 1.2.2. New to the 2017 CGP is an explicit prohibition of non-stormwater discharges of external building washdown waters containing hazardous substances, such as paint or caulk containing polychlorinated biphenyls (PCBs). Consistent with the 2012 CGP, authorized non-stormwater discharges are required to comply with any applicable effluent limitation requirements in Parts 2 and 3 of the 2017 CGP.

3. Effluent Limitations

EPA made minor revisions to the technology-based effluent limits in the permit to implement the 2014 amendments to the C&D rule, as discussed in section II. These revisions include clarifying the applicability of requirements to control erosion on-site caused by stormwater, providing additional details on areas where buffers are required, and clarifying requirements for soil stabilization, preservation of topsoil and pollution prevention measures.

4. Notice of Permit Coverage

As in the 2012 CGP, construction operators must post a sign or other notice of permit coverage at a safe, publicly accessible location in close proximity to the construction site. New for the 2017 CGP, this notice must also include information informing the public on how to contact EPA to obtain a copy of the SWPPP, and how to contact EPA if stormwater pollution is

observed in the discharge. EPA is requiring these additions to make the longstanding process of obtaining a SWPPP more readily known to the public and to improve transparency of the process to report possible violations.

5. Stockpiles and Land Clearing Debris Piles

EPA changed the requirement for temporary stabilization for stockpiles or land clearing debris piles from "where practicable" to requiring cover or appropriate temporary stabilization for all inactive piles that will be unused for 14 or more days, consistent with the temporary stabilization deadlines in Part 2.2.14. EPA made this change to ensure pollutants are minimized from these piles, but is clarifying that the requirement only applies where these piles are not actively being used.

6. Stabilization Deadlines

The 2017 CGP establishes a modified approach to the stabilization deadlines, which is based on the concept of phasing construction disturbances. Sites that disturb 5 acres or less must complete stabilization within a 14-day timeframe, which is the same timeframe that applied to sites in the 2012 CGP. For sites that disturb more than 5 acres over the course of a construction project, operators may choose between completing stabilization within a 14-day timeframe if they limit (i.e., phase) disturbances to 5 acres or less at any one time, or within a 7-day timeframe if they do not limit (i.e., phase) disturbances to 5 acres or less at any one time. The intent of this approach is to provide an incentive to disturb less land at any given period of time by providing longer stabilization timeframes if the disturbance is kept below a threshold level. This approach is also consistent with the C&D rule limit to minimize the amount of soil exposed during construction activity. See 40 CFR 450.21 (a) (3). The deadline for sites discharging to sensitive waters (regardless of how many acres they disturb overall or at any one time) remains unchanged (within 7 days), and the exceptions for sites in arid, semi-arid, and drought-stricken areas and for operators affected by circumstances beyond their control also remain unchanged.

7. Construction and Domestic Waste

The 2017 CGP now requires operators to keep waste container lids closed when not in use and at the end of the business day for those containers that are actively used throughout the day, or, for waste containers that do not have lids, provide cover or a similarly effective means to minimize the discharge of pollutants. EPA made this change to minimize the exposure of these waste materials to precipitation and stormwater, and to make the requirements for construction and domestic waste consistent with the cover requirements for most other types of materials and wastes in the 2012 CGP.

8. Discharge Limitations for Sites Discharging to Sensitive Waters

In order to help ensure that discharges meet water quality standards, in the 2017 CGP EPA added a requirement to implement controls on sites discharging to polychlorinated biphenyl (PCB) impaired waters to minimize the exposure of building materials containing PCBs to precipitation and stormwater. This provision applies to the demolition of structures with at least 10,000 square feet of floor space built or renovated before January 1, 1980. EPA also requires information about the demolition location and associated pollutants to be documented in the SWPPP.

9. Notice of Intent (NOI)

EPA added three questions to the NOI form (Appendix J). These questions are:

- The type of construction site (select one or more of 9 options).
- A yes/no question asking if there is demolition of a structure with at least 10,000 square feet of floor space that was built or renovated before January 1, 1980.
- A yes/no question asking whether the predevelopment land use was agriculture.

IV. Geographic Coverage of the Permit

This permit makes available coverage for stormwater discharges associated with construction activities that occur in areas not covered by an approved state NPDES program. The areas of geographic coverage of this permit are listed in Appendix B, and include the states of ~~Idaho~~, Massachusetts, New Hampshire, ~~and New Mexico~~, and Idaho, until July 1, 2021, which is the date Idaho becomes authorized to implement the NPDES Stormwater program, as well as most Indian Country lands, and construction projects undertaken by Federal Operators in selected states. Permit coverage is also available in the District of Columbia, Puerto Rico, and all other U.S. territories with the exception of the Virgin Islands.

V. Categories of Facilities That Can Be Covered Under This Permit

This permit covers stormwater discharges associated with construction activities located in one of the areas identified in Appendix B, which disturb one or more acres of land, or will disturb less than one acre, but are part of a common plan of development or sale that will ultimately disturb one acre or more. See 40 CFR 122.26(b)(14)(x) and (15), and Part 1.1 of the permit. The table below summarizes which construction activities may be covered by this permit:

Categories of facilities that can be covered under this permit

Examples of Affected Entities	North American Industry Classification System (NAICS) Code
Construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more, and performing the following activities:	
Construction of Buildings	236
Heavy and Civil Engineering Construction	237

Note that this list of NAICS codes covers those industry segments most likely to make use of this permit, but any construction operator that meets the eligibility requirements laid out for coverage is eligible. Eligibility for coverage by the permit is available to operators of "new sites," operators of "existing sites," "new operators of permitted sites," and operators of "emergency-related projects," as discussed in Part 1.2 and defined in Appendix A.

VI. Permit Requirements

This section outlines below the purpose of each provision, followed by the permit requirements (in text box), followed by any additional explanation of each provision.

Part 1: How to Obtain Coverage Under the CGP

Part 1 of the CGP details the provisions that must be met to obtain coverage under the permit. Although this section has been reorganized from prior permits, most of the requirements for coverage and the process to be followed for seeking coverage remain unchanged.

Part 1.1: Eligibility Conditions

The requirements in Part 1.1 describe all the conditions that must be met to be eligible for coverage under the CGP, as follows. Listing these eligibility conditions ensures that operators have verified that their particular construction project, and discharges from it, are eligible for coverage under this permit.

Part 1.1 (1.1.1 - 1.1.9)	Permit Requirements
1.1.1	You are an operator of the construction project for which discharges will be covered under this permit. For the purposes of this permit and in the context of stormwater discharges associated with construction activity, an "operator" is any party associated with a construction project that meets either of the following two criteria: a. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., in most cases this is the owner of the site); or b. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit; in most cases this is the general contractor (as defined in Appendix A) of the project). Where there are multiple operators associated with the same project, all operators must obtain permit coverage. Subcontractors generally are not considered operators for the purposes of this permit. 1.1.2 The project will disturb one or more acres, or will disturb less than one acre but is part of a common plan of development or sale that will ultimately disturb one or more acres, or the project's discharges have been designated by EPA as needing a permit under § 122.26(a)(1)(v) or § 122.26(b)(15)(ii). 1.1.3 The construction project is located in an area where EPA is the permitting authority. For a list of such areas, see Appendix B. 1.1.4 Discharges from the project are not: a. Already covered by a different NPDES stormwater permit for the same discharge. Note that this does not include sites currently covered under the 2012 CGP; or b. In the process of having coverage under another NPDES stormwater permit denied, terminated, or revoked. Note that this does not include the following: (1) sites currently covered under the 2012 CGP that will be seeking coverage under this permit, nor (2) sites that will be covered under this permit that are transferring coverage to a different operator. <i>[Note that notwithstanding a project being ineligible for coverage under this permit because it falls under the description of (a) or (b) above, EPA may waive the applicable eligibility restriction after specific review if it determines that coverage under this permit is indeed appropriate.]</i>

- 1.1.5** Discharges from the site are not likely to adversely affect any species that are federally listed as endangered or threatened under the Endangered Species Act (ESA) and will not result in the adverse modification or destruction of habitat that is federally designated as "critical habitat" under the ESA. To demonstrate this, one of the criteria listed in Appendix D must be met, following the procedures set forth in that appendix;
- 1.1.6** The operator has completed the screening process in Appendix E with respect to the protection of historic properties and places;
- 1.1.7** Any specific requirements respecting eligibility as imposed by the applicable state, tribe, or territory through CWA section 401 certification and listed in Part 9 of this permit have been met;
- 1.1.8** For operators of a "new source" (as defined in Appendix A)
- a. EPA has not, prior to authorization under this permit, determined that discharges from your site will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify the operator that an individual permit application is necessary in accordance with Part 1.2.2. However, EPA may authorize coverage under this permit after the operator has included appropriate controls and implementation procedures designed to bring the discharge into compliance with this permit, specifically the requirement to meet water quality standards. In the absence of information demonstrating otherwise, EPA expects that compliance with the stormwater control requirements of this permit, including the requirements applicable to such discharges in Part 3, will result in discharges that will not cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard; and
 - b. Discharges from your site to a Tier 2, Tier 2.5, or Tier 3 water¹ will not lower the water quality of the applicable water. In the absence of information demonstrating otherwise, EPA expects that compliance with requirements of this permit, including the requirements applicable to such discharges in Part 3.2, will result in discharges that will not lower the water quality of such waters.
- 1.1.9** If the operator plans to add cationic treatment chemicals (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge, it is ineligible for coverage under this permit and may not submit an NOI, unless and until it notifies the applicable EPA Regional Office (see Appendix L) in advance and the EPA Regional Office authorizes coverage under this permit after the operator has included appropriate controls and implementation procedures designed to ensure that their use of cationic treatment chemicals will not lead to discharges that cause an exceedance of water quality standards. In the absence of such authorization, to use cationic treatment chemicals at the site, the operator must apply for and receive coverage under an individual permit.

¹ Note: Your site will be considered to discharge to a Tier 2, Tier 2.5, or Tier 3 water if the first water to which you discharge is identified by a state, tribe, or EPA as a Tier 2, Tier 2.5, or Tier 3 water. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system. See list of Tier 2, Tier 2.5, and Tier 3 waters in Appendix F.

The definition of "operator" in Part 1.1.1 above is consistent with the 2012 CGP. ~~The Any party associated with a construction site that meets the first part of the definition of "operator" (i.e., the party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications) in most cases will be the owner of the site. The party that meets or the second part of the definition of "operator" (i.e., the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit)) must obtain NPDES permit coverage for its stormwater discharges associated with construction activity including clearing, grading, and excavation. in most cases will be the general contractor of the project. EPA clarifies that subcontractors generally do not meet the definition of "operator," and thus are generally not required to obtain permit coverage.~~

Part 1.1 of the permit also clarifies the requirements with respect to projects with multiple operators. Where there are multiple operators associated with the same project, all operators must obtain permit coverage. Also, if the operator of a "construction support activity" (see Part 1.2.1.c) is different than the operator of the main site, that operator must also obtain permit coverage. For example, if a construction support activity for the project is owned by a separate owner, and if the separate owner meets the definition of "operator", that person must obtain permit coverage for discharges from the site where the support activities are located. However, if the construction support activity is owned or operated by the site operator, then the support activity must be included in the site operator's permit coverage, including any documentation provided in the NOI and SWPPP. Part 1.1 references Part 7.1 for clarification on the sharing of liability permit-related functions between and among operators on the same site and for conditions that apply to developing a SWPPP for multiple operators associated with the same site.

The requirements in Part 1.1.8, which apply to new sources, are designed to comply with 40 CFR 122.4(i) requirements that address the issuance of permits to new sources to waterbodies not meeting instream water quality standards. EPA notes that while Part 1.1.8 is designed to specifically implement 40 CFR 122.4(i), other water quality-based requirements apply to existing sources, as well as new sources. Part 3 of the permit includes water quality-based effluent limits applicable to all sources, which are designed to ensure that all discharges from all operators are controlled as necessary to meet water quality standards.

Part 1.1.8 also requires operators to determine if they discharge to a Tier 2, Tier 2.5, or Tier 3 water, and if they do, to comply with specific requirements in the permit, which are intended to ensure that their discharges will not result in a lowering of water quality in the receiving water. This provision makes clear to operators their requirements for complying with antidegradation requirements, and provides assurance that operators will not cause or contribute to a lowering of water quality in the receiving water.

Part 1.1.9 clarifies what operators electing to use cationic treatment chemicals must do to be eligible for coverage under the permit. EPA has added Appendix L to the permit as a suggested format for notifying the operator's applicable EPA Regional Office about its intent to use of cationic treatment chemicals. The addition of Appendix L is to make it easier for operators to become eligible for permit coverage under Part 1.1.9. This provision is not being modified from the 2012 CGP.

EPA hereby incorporates by reference the discussion in the 2012 CGP fact sheet concerning background on cationic treatment chemicals as well as the agency's rationale for adopting this provision. See section VI.2.4 "Use of Cationic Treatment Chemicals" on pages 20 through 28 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

Part 1.2: Types of Discharges Authorized

Part 1.2 of the CGP provides operators with a comprehensive list of the types of discharges that are authorized once covered under this permit. This list makes operators aware of allowed stormwater and non-stormwater discharges, and of any additional requirements associated with those discharges to minimize the discharge of pollutants, and also makes operators aware that any discharges not included on the list are not authorized under this permit. The new language in footnote 5 reminds operators to refer to the definition of "discharge" in Appendix A.

Part 1.2.1 lists categories of stormwater discharges that are allowed under the CGP, provided that all applicable permit limits and conditions are met.

Part 1.2.1	Permit Requirements
	The following stormwater discharges are authorized under this permit provided that appropriate stormwater controls are designed, installed, and maintained (see Parts 2 and 3): a. Stormwater discharges, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity under 40 CFR 122.26(b)(14) or 122.26(b)(15)(i); b. Stormwater discharges designated by EPA as needing a permit under 40 CFR § 122.26(a)(1)(v) or § 122.26(b)(15)(ii); c. Stormwater discharges from construction support activities (<i>e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas</i>) provided that: i. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges; ii. The support activity is not a commercial operation, nor does it serve multiple unrelated construction projects; iii. The support activity does not continue to operate beyond the completion of the construction activity at the project it supports; and iv. Stormwater controls are implemented in accordance with Part 2 and Part 3 for discharges from the support activity areas. d. The permit also clarifies that stormwater discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining are eligible for coverage under the CGP.

Part 1.2.2 provides authorization for non-stormwater discharges from the operator's construction activity.

Part 1.2.2	Permit Requirements
	The following non-stormwater discharges associated with your construction activity are authorized under this permit provided that, with the exception of water used to control dust and to irrigate vegetation in stabilized areas, these discharges are not routed to areas of exposed soil on your site and you comply with any applicable requirements for these discharges in Parts 2 and 3: a. Discharges from emergency fire-fighting activities;

- b. Fire hydrant flushings;
- c. Landscape irrigation;
- d. Water used to wash vehicles and equipment, provided there is no discharge of soaps, solvents, or detergents used for such purposes;
- e. Water used to control dust;
- f. Potable water including uncontaminated water line flushings;
- g. External building washdown, provided soaps, solvents, and detergents are not used, and external surfaces do not contain hazardous substances (as defined in Appendix A) (e.g., paint or caulk containing polychlorinated biphenyls (PCBs));
- h. Pavement wash waters, provided spills or leaks of toxic or hazardous material have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. The operator is prohibited from directing pavement wash waters directly into any water of the U.S., storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- i. Uncontaminated air conditioning or compressor condensate;
- j. Uncontaminated, non-turbid discharges of ground water or spring water;
- k. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water; and
- l. Construction dewatering water discharged in accordance with Part 2.4.

Part 1.2.1.d includes a new clarification that stormwater discharges from earth-disturbing activities associated with the construction of staging areas and the construction of access roads conducted prior to active mining are eligible for coverage under the CGP. This clarification was added to ensure consistency between this permit and the 2015 MSGP, which gives mining operators the option of having these same stormwater discharges covered under that permit or having them covered under the CGP. This language simply makes it clear to mining operators that these stormwater discharges are in fact eligible under the CGP, as intended.

Part 1.2.2 adds a new condition that discharges of external building washdown waters containing hazardous substances (e.g., *paint or caulk containing PCBs*) are not authorized. The purpose of this new provision is to prevent releases of PCBs in the environment when these wash waters contact external building surfaces containing PCBs. If the operator were to discharge washdown waters containing PCBs to an MS4 or directly to a receiving water, these would be unauthorized discharges.

EPA notes that "uncontaminated" means that the discharge does not cause or contribute to an exceedance of applicable water quality standards. Similarly, "non-turbid" means the discharge does not cause or contribute to an exceedance of turbidity-related water quality standards. See Appendix A.

Part 1.2.3 provides authorization to discharge authorized stormwater or authorized non-stormwater discharges, commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

Part 1.2.3	Permit Requirements
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Also authorized under this permit are discharges of stormwater listed above in Part 1.2.1, or authorized non-stormwater discharges listed above in Part 1.2.2, commingled with a discharge
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authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

Part 1.3: Prohibited Discharges

Part 1.3 identifies the types of discharges that are prohibited from occurring at the operator's construction site. This list prohibits the following discharges:

Part 1.3 (1.3.1 - 1.3.5)	Permit Requirements
1.3.1.	Wastewater from washout of concrete, unless managed by an appropriate control as described in Part 2.3.4;
1.3.2.	Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
1.3.3.	Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
1.3.4.	Soaps, solvents, or detergents used in vehicle and equipment washing or external building washdown; and
1.3.5.	Toxic or hazardous substances from a spill or other release.

Part 1.3 also specifies that to prevent the above-listed prohibited non-stormwater discharges, operators must comply with the applicable pollution prevent requirements in Part 2.3.

Part 1.3 details the types of wastes and other pollutants that operators are prohibited from discharging under the permit. The requirement in Parts 1.3.1 through 1.3.4 above implement prohibitions included in the C&D rule at 40 CFR 450.21(e). The requirement in Part 1.3.5 above to prohibit toxic or hazardous substances from a spill or other release corresponds to Part 3.1.1 of the 2008 CGP ("you are not authorized to discharge hazardous substances or oil resulting from an on-site spill"). EPA includes the types of prohibited non-stormwater discharges in the permit as a reminder to the operator that the only authorized non-stormwater discharges are at Part 1.2.2. Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit.

This provision, which is now Part 1.3 in this permit, was moved from Part 2 in the 2012 CGP. Moving this section on prohibited discharges to immediately follow Part 1.2 on authorized discharges specifies for operators in one place in the permit which discharges are and are not allowed under the CGP.

Part 1.4: Submitting Your NOI

Part 1.4 carries out the fundamental requirement that discharges are not authorized until permit coverage is obtained, and that permit coverage is obtained for the CGP through the submission of a complete and accurate NOI followed by a minimum 14-day waiting period.

Part 1.4	Permit Requirements
	Part 1.4 specifies that all "operators" (as defined in Appendix A) associated with the construction site, who meet the Part 1.1 eligibility requirements, and who seek coverage under the final permit, must submit to EPA a complete and accurate NOI prior to commencing construction activities.
	Part 1.4 provides an exception for operators that are conducting construction activities in response to a public emergency (e.g., <i>natural disaster, widespread disruption in essential public services</i>), and the related work requires immediate authorization to avoid imminent

endangerment to human health, public safety, or the environment, or to reestablish essential public services. If any of these circumstances apply, the operator may discharge on the condition that a complete and accurate NOI is submitted within 30 calendar days after commencing construction activities (see Table 1 in the permit) establishing that you are eligible for coverage under this permit. The operator must also provide documentation in the SWPPP to substantiate the occurrence of the public emergency.

EPA recognizes that obtaining CGP coverage following the normal procedures is not feasible in situations requiring emergency-related construction. EPA includes the exception in Part 1.4 to ensure that the authorization process does not interfere with emergency-related construction projects required to avoid endangerment to human health, public safety, or the environment. By providing the operators of these projects with the ability to immediately begin work, and to postpone the NOI submission and SWPPP completion deadlines for 30 calendar days, EPA intends that these projects may proceed without delay. Once the initial 30 calendar days has expired, however, an NOI must be submitted and a SWPPP must be completed.

Part 1.4.1: Prerequisite for Submitting Your NOI

Part 1.4.1 clarifies that completing development of the SWPPP consistent with Part 7 is a prerequisite to submitting an NOI for coverage under this permit.

Part 1.4.1 | Permit Requirements

Operators must develop a SWPPP consistent with Part 7 before submitting an NOI for coverage under this permit.

Part 1.4.1 was a note in Part 1.4 in the 2012 CGP. The note was moved to the body of the permit to make this requirement more visible to operators.

Part 1.4.2: How to Submit Your NOI

Part 1.4.2 clarifies the method by which operators are to submit their NOIs for permit coverage.

Part 1.4.2 | Permit Requirements

Part 1.4.1 specifies that operators must use EPA's NPDES eReporting Tool (NeT) to electronically prepare and submit their NOIs for coverage under the 2017 CGP, unless the operator receives a waiver from your EPA Regional Office. Waivers from electronic reporting may be granted based on one of the following conditions:

- a. If the operator's operational headquarters are physically located in a geographic area (i.e., ZIP code or census tract) that is identified as underserved for broadband Internet access in the most recent report from the Federal Communications Commission; or
- b. If the operator has limitations regarding available computer access or computer capability.

If the operator wishes to obtain a waiver from submitting a report electronically, operators must submit a request to the EPA Regional Office. In that request, operators must document which exemption they meet, provide evidence supporting any claims, and a copy of their completed NOI form. A waiver may only be considered granted once operators receive written confirmation from EPA. If the EPA Regional Office grants the operator approval to use a paper NOI, and they elect to use it, the operator must complete the form in Appendix J.

This is the first CGP that has made use of EPA's NPDES eReporting Tool (NeT), which replaces the previous electronic system required in the 2012 CGP, the eNOI system. Due to the expansion in Internet availability, greater efficiency in administrative processing, and reductions in cost to manage the system as compared to paper NOIs, it is required that NeT be the primary mechanism by which construction projects obtain permit coverage. If it is not possible for an operator to make use of NeT, such operator may submit a waiver request to the Regional Office and an explanation as to why use of NeT is infeasible. Operators must receive affirmative confirmation from the Regional Office to then use a paper NOI.

Part 1.4.3: Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage

Part 1.4.2 specifies the deadlines for submitting NOIs for permit coverage and official start dates for permit coverage in Table 1. NOI submittal deadlines vary depending on when the operator commences construction activity. Table 1 summarizes the deadlines and permit coverage start dates based upon the type of construction project as follows:

Part 1.4.3 Permit Requirements		
Table 1 NOI Submittal Deadlines and Official Start Date for Permit Coverage.		
Type of Operator	NOI Submittal Deadline²	Permit Authorization Date³
Operator of a new site (i.e., a site where construction activities commence on or after February 16, 2017)	At least 14 calendar days before commencing construction activities.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
Operator of an existing site (i.e., a site with 2012 CGP coverage where construction activities commenced prior to February 16, 2017)	No later than May 17, 2017 .	
New operator of a permitted site (i.e., an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or an "existing site")	At least 14 calendar days before the date the transfer to the new operator will take place.	
Operator of an "emergency-related project" (i.e., a project initiated in response to a public emergency (e.g., natural disaster, disruption in essential public services), for	No later than 30 calendar days after commencing construction activities.	You are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered 14 calendar days after EPA notifies you

² If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. EPA may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

³ Discharges are not authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage.

which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services)		that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
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The term "operator of a new site" in Table 1 is used to describe projects that commence earth disturbing activities on or after February 16, 2017, the effective date of the permit. New sites include those new sources that are subject to the C&D rule's NSPSs because they commenced construction after February 1, 2010 (the effective date of the C&D rule). The term "new site" was adopted to avoid the confusion that would have resulted if the permit used the term "new source" to describe both projects that began construction after February 1, 2010, but before February 16, 2017, and those projects that begin on or after February 16, 2017.

The term "operator of an existing site" in Table 1 refers to construction projects that commenced activities prior to February 16, 2017, the effective date of the permit. Existing sites include both those activities that began prior to the February 1, 2010 effective date of the NSPS of the C&D rule, and may have been covered under the 2008 CGP, and those activities that are subject to the NSPS because they commenced after February 1, 2010, but before February 16, 2017.

The 14-day NOI submittal deadlines in Table 1 for operators of new sites and new operators of a new or existing site provides the Fish & Wildlife Service and the National Marine Fisheries Service (the "Services"), state and tribal historic preservation offices, and the public, with an opportunity to review these submissions and to inform EPA if they believe that more time is needed to review the potential impacts from the project. The 14 days between receipt of the NOI and authorization is referred to as the "waiting period."

During the 14-day waiting period, where one or both of the Services or the historic preservation office requests that they or EPA need to further explore whether a particular facility is eligible for permit coverage, EPA can delay authorization to allow such an assessment to take place. EPA may also use the waiting period to determine whether any more stringent control measures are necessary to ensure that discharges will meet applicable water quality standards, to be consistent with an applicable wasteload allocation (WLA), or to comply with state or tribal antidegradation requirements.

Additionally, during this waiting period, the public has an opportunity to review the NOIs and request review of applicable SWPPPs. Anyone wishing to provide feedback to EPA can send information to the appropriate EPA Regional Office listed in Appendix B of the permit for consideration. EPA clarifies that this waiting period is not a public notice and comment period. EPA will consider any information provided to it during the waiting period, but does not plan to provide specific responses to comments received. Where appropriate, EPA will address concerns raised (*e.g., will direct the relevant operator to make improvements to the designed stormwater controls as necessary to meet the requirements of the permit*). Depending on the nature of the issue and the timing of the comments, EPA will take appropriate action either prior to or following discharge authorization. In addition, EPA may delay authorization if warranted, or may determine that the discharge is not eligible for authorization under this permit.

The description of the permit authorization date changed slightly from the 2012 CGP. The 2012 CGP states that the operator would be covered under the permit "14 calendar days after EPA has acknowledged receipt of [the operator's] NOI on the agency's website..." Under the 2017 CGP, operators are covered under the permit "14 calendar days after EPA notifies [the operator] that it has received a complete NOI..." This is a clarification of the process that was

followed under the 2012 CGP. "Acknowledging receipt on the agency's website" required the NOI to be complete when submitted to EPA, and it would not be processed otherwise. Therefore, EPA is making it more explicit that the NOI must be complete upon receipt for the operator be covered within 14 calendar days.

Table 1 describes that operators of emergency-related projects are considered provisionally covered under the permit immediately upon the start of construction, and unprovisionally covered 14 calendar days after EPA acknowledges receipt of their NOI through posted information on EPA's website (<https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>), unless EPA notifies the operator that their authorization has been delayed or denied.

If the operator requests a waiver and submits a paper NOI, the 14-day period prior to permit coverage is the same as above, however this period commences only after EPA completes manual entry of the paper NOI information into NeT. Note that if the paper NOI contains errors or is incomplete, this will result in delaying the commencement of the 14-day waiting period. The operator will be able to tell when the 14-day waiting period has begun by checking for their NOI in NeT at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting>.

Part 1.4.4: Modifying your NOI

Part 1.4.4 describes the process for modifying an NOI if the operator needs to correct or update any fields.

Part 1.4.4	Permit Requirements
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To modify an NOI, the operator may submit a "Change NOI" form using NeT. Waivers from electronic reporting may be granted as specified in Part 1.4.2. If the EPA Regional Office has granted the operator approval to submit a paper NOI modification, they may indicate any NOI changes on the same NOI form in Appendix J. When there is a change to the site's operator, the new operator must submit a new NOI, and the previous operator must submit a NOT form as specified in Part 8.3.

Part 1.4.4 is a new provision in the permit that EPA added to clarify for operators the existing procedure for modifying NOIs.

Part 1.4.5: Your Official End Date of Permit Coverage

Part 1.4.5 describes how long permit coverage lasts.

Part 1.4.5	Permit Requirements
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Once covered under the CGP, permit coverage will last until:

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| <ul style="list-style-type: none"> a. The operator terminates permit coverage, consistent with Part 8; or b. The operator receives permit coverage under a different NPDES permit, or a reissued or replacement version of this permit after expiring on February 16, 2022 if the operator requests coverage under the reissued or replacement permit by the specified deadline (in this case the operator has no break in coverage); or c. The operator fails to submit an NOI for coverage under a revised or replacement version of this permit before the deadline for existing construction sites where construction activities continue after this permit has expired (in this case your coverage lapses and EPA may take enforcement action against any unpermitted discharges). |
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Continuation of Coverage for Existing Operators After the 2017 Permit Expires

Note that if the 2017 CGP is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with section 558(c) of the Administrative Procedure Act (see 40 CFR 122.6) and remain in force and effect for discharges that were covered prior to its expiration. All operators granted permit coverage prior to the expiration date of the permit will automatically remain covered by the 2017 CGP until the earliest of:

- a. The authorization for coverage under a reissued or replacement version of the permit following the timely submittal of a complete and accurate NOI requesting coverage under the new permit. If a timely NOI for coverage under the reissued or replacement permit is not submitted, coverage will terminate on the date that the NOI was due; or
- b. The date of the submittal of an NOI; or
- c. Issuance or denial of an individual permit for the operator's discharges; or
- d. A final permit decision by EPA not to reissue the CGP, at which time EPA will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

EPA reserves the right to modify or revoke and reissue the 2017 CGP under 40 CFR 122.62 and 63, in which case the operator will be notified of any relevant changes or procedures to which operators may be subject.

This clarification was previously stated in Part 1.4.4 of the 2012 CGP and has been moved to the fact sheet in the 2017 CGP. The clarification describes for operators the continuation of coverage for existing operators if the permit expires. Where EPA fails to issue a final general permit prior to the expiration of a previous general permit, EPA has the authority to administratively continue the permit for operators authorized to discharge under the prior general permit. However, EPA does not have the authority to provide coverage to construction projects not already authorized to discharge under that prior general permit. Once the five-year expiration date for this permit has passed, any such projects would need to obtain coverage under an individual permit, or other general permit that is in effect.

Part 1.5: Requirement to Post a Notice of Your Permit Coverage

The requirement in Part 1.5 is to provide notice to the public, and any other interested parties, that discharges from the construction site are authorized by EPA.

Part 1.5	Permit Requirements
	Part 1.5 of the CGP requires that the operator post a sign or other notice of permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way. At a minimum, the notice must include: a. The NPDES ID (i.e., permit tracking number assigned to your NOI); b. A contact name and phone number for obtaining additional construction site information; c. The Uniform Resource Locator (URL) for the SWPPP (if available), or the following statement: "If you would like to obtain a copy of the Stormwater Pollution Prevention Plan (SWPPP) for this site, contact the EPA Regional Office at [include the appropriate CGP Regional Office contact information found at https://www.epa.gov/npdes/contact-us-stormwater#regional];" and

- d. The following statement "If you observe indicators of stormwater pollutants in the discharge or in the receiving waterbody, contact the EPA through the following website: <https://www.epa.gov/enforcement/report-environmental-violations>."

By providing notice of permit coverage and other information about the site, interested parties are more easily able to obtain information about the construction site, such as the SWPPP, and identify the site when reporting potential permit violations. Note that operators are only required to provide copies of the SWPPP, upon request, to EPA; a state, tribal or local agency approving stormwater management plans; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS). EPA may provide access to portions of the SWPPP to a member of the public upon request. For the 2017 CGP, EPA added a requirement that the notice of permit coverage must include a statement about how to obtain a copy of the SWPPP from EPA. This addition makes the protocol for requesting a SWPPP easily known and explicit to the public. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from EPA, USFWS, or NMFS. To improve transparency of the process to report possible violations, EPA also added a requirement that the notice of permit coverage must include information on how the public can contact EPA if stormwater pollution is observed in the discharge. EPA also added footnote 10 to clarify that when the active part of the construction site is not visible from a public road, operators must place the notice of permit coverage in a position that is visible from the nearest public road and as close as possible to the construction site.

Part 2: Technology-Based Effluent Limitations

Part 2 organizes the stormwater effluent limitations into four sections:

- Part 2.1: General Stormwater Control Design, Installation, and Maintenance Requirements;
- Part 2.2: Erosion and Sediment Control Requirements;
- Part 2.3: Pollution Prevention Requirements; and
- Part 2.4: Construction Dewatering Requirements.

The stormwater control requirements in Part 2 are the technology-based effluent limitations that apply to all discharges associated with construction activity eligible for permit coverage. The requirements in Part 2 generally apply the national effluent limitations guidelines and new source performance standards in the Construction and Development Rule ("C&D rule") in 40 CFR Part 450 promulgated on December 1, 2009 (74 Fed. Reg. 62996), and amended on March 6, 2014 (79 Fed. Reg. 12661). These requirements apply to all permitted sites, including construction support activities that are covered under the permit under Part 1.2.1.c.

EPA's Incorporation of the Non-Numeric Limits

An operator can minimize the discharge of pollutants from construction sites by satisfying the non-numeric effluent limitations at 40 CFR 450.21 and by using various controls and practices, outlined in more detail by the permitting authority. EPA crafted the non-numeric effluent limits in the C&D rule to allow flexibility in how the permitting authority implements these requirements in permits. See 74 FR 63016. As an example, 40 CFR 450.21(a)(5) requires construction operators to design, install, and maintain controls to "minimize sediment discharges from the site." Thus, each NPDES permitting authority has some discretion within this somewhat broad requirement, defined further at 40 CFR 450.21(a)(5), to further define what it means to

minimize sediment discharges, or to achieve any of the other non-numeric limits. See 74 FR 63016.

Accordingly, this permit contains requirements that specifically implement or incorporate each of the C&D rule's non-numeric limits in order to minimize the discharge of pollutants from construction sites. This is consistent with EPA's objective to write general permits with conditions that are clear, specific, and measurable. In the sections that follow, EPA discusses the permit requirements, and explains how the language is consistent with the non-numeric effluent limits in the C&D rule upon which they are based.

Part 2.1: General Stormwater Control Design, Installation, and Maintenance Requirements

Part 2.1 establishes the overall principle for designing, installing, and maintaining stormwater controls that work to minimize the discharge of pollutants from construction sites, as required in 40 CFR 450.21.

Part 2.1	Permit Requirements
Part 2.1 includes the general requirement that the operator must design, install, and maintain stormwater controls required in Parts 2.2 and 2.3 to minimize the discharge of pollutants in stormwater from construction activities. Part 2.1 includes design, installation, and maintenance requirements that must be followed for all such controls.	

Part 2.1.1: Design Factors

Part 2.1.1 requires the operator to account for design factors that address the corresponding C&D rule requirements in 40 CFR 450.21(a)(2) and (5).

Part 2.1.1	Permit Requirements
In the design of stormwater controls, operators must account for the following factors:	
a. The expected amount, frequency, intensity, and duration of precipitation; b. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. You must design stormwater controls to control stormwater volume, velocity, and peak flow rates to minimize discharges of pollutants in stormwater and to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points; and c. The soil type and range of soil particle sizes expected to be present on the site.	

It is important to consider precipitation characteristics so that earth-disturbing activities can be planned during periods with a lower risk of precipitation and so that erosion and sediment control practices can be designed to convey and manage the precipitation that is expected to occur. The requirement to design stormwater controls to account for the nature of stormwater runoff and run-on on the site and to reduce peak flowrates and total stormwater is intended to minimize scouring and erosion caused by stormwater discharges from the site. The requirement to account for soil characteristics, such as particle size distribution, erosivity, and cohesiveness, is also important for selecting and designing appropriate erosion and sediment controls.

Part 2.1.2: Good Engineering Practices

Part 2.1.2 implements the C&D rule requirement to "install effective erosion and sediment controls."

Part 2.1.2	Permit Requirements
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The operator must design and install all stormwater controls in accordance with good engineering practices, including applicable design specifications.

In order for stormwater controls to be effective, they must be properly designed and installed. EPA notes that design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Additionally, where it is appropriate to depart from such specifications, this must reflect good engineering practice and must be explained in the SWPPP.

Part 2.1.3: Complete Installation Prior to Commencement of Construction

Part 2.1.3 is intended to ensure that stormwater controls are installed and made operational to minimize pollutant discharges from the area of active disturbance.

Part 2.1.3 | Permit Requirements

The operator must complete the installation of stormwater controls by the time each phase of construction has begun:

- a. By the time construction activity in any given portion of the site begins, the operator must install and make operational any downgradient sediment controls (e.g., *buffers, perimeter controls, exit point controls, storm drain inlet protection*) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities. EPA notes that this requirement does not apply to the earth disturbance associated with the actual installation of these controls. Operators should take all reasonable actions to minimize the discharges of pollutant during the installation of stormwater controls.
- b. Following the installation of the initial controls, the operator must install and make operational all stormwater controls needed to control discharges prior to subsequent earth-disturbing activities.

For example, prior to initial site clearing and grading activities, the operator must install perimeter controls, exit point controls, and, if applicable, storm drain inlet protections and natural buffers or equivalent sediment controls to control stormwater discharges from the initial disturbances. After this initial work is completed, the operator must install and make operational other controls, such as sediment traps or sediment basins, that are expected to treat stormwater during the remaining phases of construction. Where a project is conducted in phases, such as for a large-scale road project, the requirement is to install such controls prior to commencing earth-disturbing activities for the particular phase. After initial controls are installed, the operator must install and make operational any remaining stormwater controls as conditions allow.

EPA notes that the phrase "unless infeasible" has been removed from the requirement to complete installation of initial downgradient sediment controls by the time construction has begun, which was included in the 2012 CGP. In EPA's judgment, this is not a meaningful change because the permit already accounts for the scenarios in which meeting this requirement would be infeasible in footnote #12 in the permit.

Part 2.1.4: Maintain Controls in Effective Operating Condition

Part 2.1.4 implements the C&D rule requirement to "maintain effective erosion controls and sediment controls" at 40 CFR 450.21(a) and the NPDES requirement at 40 CFR 122.41(e) to "at all times properly operate and maintain all facilities and systems of treatment and control"

Part 2.1.4 | Permit Requirements

During permit coverage, the operator must ensure that all stormwater controls are maintained and remain in effective operating condition and are protected from activities that would reduce their effectiveness.

- a. Comply with any specific maintenance requirements for the stormwater controls listed in this permit, as well as any recommended by the manufacturer.
- b. If at any time you find that a stormwater control needs routine maintenance, you must immediately initiate the needed maintenance work, and complete such work by the close of the next business day.
- c. If at any time you find that a stormwater control needs repair or replacement, you must comply with the corrective action requirements in Part 5.

Part 2.2: Erosion and Sediment Control Requirements

Part 2.2 implements the C&D rule's requirement at 40 CFR 450.21 (a) to "design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants," as well as the requirements in 40 CFR 450.21 (b) for soil stabilization.

Part 2.2	Permit Requirements
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Part 2.2 requires the operator to implement erosion and sediment controls that minimize the discharge of pollutants in stormwater from construction activities.

The specific sections of the permit within Part 2.2 include requirements that articulate what is expected of CGP operators in order to comply with this effluent limitation established in the C&D rule.

Part 2.2.1: Natural Buffers

Part 2.2.1 implements the C&D rule's requirement to minimize the discharge of pollutants from the site by providing and maintaining "natural buffers around waters of the United States... unless infeasible." See 40 CFR 450.21 (a)(6).

Part 2.2.1	Permit Requirements
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Provide and maintain natural buffers and/or equivalent erosion and sediment controls when a water of the U.S. is located within 50 feet of the site's earth disturbances.

- a. For any discharges to "waters of the U.S." (defined in Appendix A) located within 50 feet of the site's earth disturbances, the operator must comply with one of the following alternatives:
 - i. Provide and maintain a 50-foot undisturbed natural buffer; or
 - ii. Provide and maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer; or
 - iii. If infeasible to provide and maintain an undisturbed natural buffer of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.
- b. Exceptions to the requirement in Part 2.2.1.a are explained in Appendix G, Part G.2.

This requirement applies to all project sites that are situated within 50 feet of a water of the U.S., with certain exceptions described in Appendix G of the permit. Appendix G provides

guidance on which sites must comply with the buffer provision, and how to implement the different compliance alternatives.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the agency's rationale for adopting the specific buffer requirements. See section "Provide Natural Buffers or Equivalent Sediment Controls" on pages 41 through 65 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

EPA moved much of the language from the 2012 CGP buffer provision to Appendix G since this requirement only applies to a subset of construction operators (i.e., those whose site disturbances occur within 50 feet of a water of the U.S.). While the requirements and the flexibility provided remain the same, it is more efficient to explain these compliance details and to provide further guidance in Appendix G, which is solely devoted to the topic of the buffer requirements.

Part 2.2.2: Direct Stormwater to Vegetated Areas

Part 2.2.2 implements the C&D rule requirement at 40 CFR 450.21(a)(6). This requirement reduces the discharge of sediment and other pollutants through filtration and infiltration.

Part 2.2.2	Permit Requirements
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Direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infeasible.
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Operators can comply with this requirement by directing non-erosive flows leaving silt fences, filter berms, or other perimeter controls and sediment basins to natural buffers adjacent to streams or other vegetated areas on or adjacent to the property on which the construction activities will occur. Note that some site operators have found the use of level spreaders or other practices to be effective to prevent erosive discharges. These practices will help to prevent the formation of gullies and associated erosion. Examples of where it may be infeasible to direct discharges from stormwater controls to vegetated areas include those areas where pervious or vegetated areas within the project footprint are non-existent, such as in some highly urban areas.

Part 2.2.3: Install Perimeter Controls

The perimeter control requirements in Part 2.2.3 implement the C&D rule requirement to "install effective erosion and sediment controls."

Part 2.2.3	Permit Requirements
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Operators must install sediment controls, such as filter berms, silt fences, vegetative strips, and temporary diversion dikes, along any perimeter areas of the site that will receive pollutant discharges, and comply with the following perimeter control requirement:

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| <ul style="list-style-type: none"> a. Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control. b. Exception: For areas at "linear construction sites" (as defined in Appendix A) where perimeter controls are infeasible (e.g., due to a limited or restricted right-of-way), implement other practices as necessary to minimize pollutant discharges to perimeter areas of the site. |
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The requirement instructs operators as to where downslope sediment controls should be installed so that they are effectively situated to minimize the discharge of pollutants on the site. The requirement in (a) above makes operators aware that they must maintain perimeter controls so that they remain effective throughout the duration of permit coverage. This requirement

implements the C&D rule requirement to "maintain effective erosion controls and sediment controls" at 40 CFR 450.21 (a).

The requirement in (b) above provides flexibility for linear construction sites by allowing them to document in the SWPPP when it is infeasible to install perimeter controls in certain areas of the site, and instead allowing the use of other types of practices that will adequately minimize pollutant discharges to perimeter areas of the site. The language in Part 2.2.3.b reflects a modification from the 2012 CGP, which required that perimeter controls for linear sites be maximized where practicable where there are rights-of-way restrictions. EPA established this provision in order to recognize that for some linear projects, perimeter controls are not always feasible (e.g., due to limited available space to install perimeter controls), and that other types of practices can be employed to minimize pollutant discharges. For example, in urban areas where, due to right-of-way limitations, perimeter controls could cause a safety hazard to vehicles and/or pedestrians, perimeter controls may not be feasible. Other practices that could be implemented to minimize pollutant discharges from perimeter areas for these types of sites could include conducting earth disturbances only on days when no precipitation will occur; limiting disturbances and stabilizing areas of exposed soil immediately; and avoiding disturbances to environmentally sensitive areas. The types of other practices to be implemented to adequately minimize pollutant discharges from perimeter areas must be based on site-specific conditions and reflect good engineering judgment.

While perimeter controls may not be feasible in the above circumstances, operators are reminded of the requirement under Part 2.1.1 to account for the required design factors for their stormwater controls and their overall obligation in Part 2 to minimize sediment discharges. In addition, the operator must ensure that sediment and other pollutants, which may escape the area of disturbance onto off-site streets, other paved areas, and sidewalks, are removed consistent with the mitigation requirements in Part 2.2.4.d.

EPA also notes that Part 2.2.3 only applies along any perimeter areas of the site that will receive pollutant discharges. If a portion of the construction site's perimeter area does not receive pollutant discharges, perimeter controls are not required in that portion of the site. Therefore, perimeter controls are not necessary in the perimeter area surrounding construction activities in areas of sites where no pollutant discharges occur, which for certain linear construction sites could include:

- Pole sites where only overhead work is conducted;
- Use of pre-existing access roads or pad areas where no expansion or below-grade improvements (e.g., *no new earth disturbances*) will occur; and
- Areas where vegetation is left in place but needs to be trimmed (e.g., *mowing, weed whacking, etc.*) to allow temporary access (e.g., *overland travel*) or use of a site (e.g., *wire stringing site*). In such circumstances, the ground cover (i.e., grasses and other low-growing vegetation, such as mosses, ferns, vines, shrubs, herbaceous plants, and root mats that are planted or that naturally occur) is retained and no grading occurs.

Part 2.2.4: Minimize Sediment Track-Out

Collectively, the requirements in Part 2.2.4 will result in the minimization of sediment that has been tracked out from the site onto paved surfaces and subsequently discharged in stormwater. The following practices are required for minimizing sediment track-out:

Part 2.2.4	Permit Requirements
	a. Restrict vehicle use to properly designated exit points;

- b. Use appropriate stabilization techniques (e.g., use of aggregate stone with an underlying geotextile or non-woven filter fabric, and turf mats) at all points that exit onto paved roads.
 - i. *Exception:* Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls (e.g., preventing the use of exit points during wet periods; minimizing exit point use by keeping vehicles on site to the extent possible; limiting exit point size to the width needed for vehicle and equipment usage; using scarifying and compaction techniques on the soil; and avoiding establishing exit points in environmentally sensitive areas) are implemented to minimize sediment track-out;
- c. Implement additional track-out controls (e.g., wheel washing, rumble strips, and rattle plates) as necessary to ensure that sediment removal occurs prior to vehicle exit; and
- d. Where sediment has been tracked out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment into any stormwater conveyance, storm drain inlet, or water of the U.S.

The requirement to restrict vehicle use to properly designated exit points in (a) above, the requirement for appropriate stabilization techniques at all points that exit onto paved roads in (b) above, and the requirement for the use of additional controls as necessary to ensure that sediment removal occurs prior to vehicle exit in (c) above, implement the C&D rule requirement to "minimize sediment discharges from the site." The requirement in (b) above also implements the C&D rule requirement to "minimize the amount of soil exposed during construction activity." The requirement in (d) above implements the C&D rule requirements to "minimize sediment discharges" and the requirement to "minimize the discharge of pollutants from equipment and vehicle washing"

The exception language in (b) is added here to reflect the guidance included in EPA's FAQ for the corresponding section of the 2012 permit (i.e., Part 2.1.2.3.b). See EPA's FAQ for Part 2.1.2.3.b at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#faq>. Portions of this FAQ are repeated here to further explain the meaning of these requirements for linear utility projects:

EPA acknowledges that the use of exit points for certain narrow linear utility projects can differ from traditional residential or commercial construction projects, where the same exit points are consistently used throughout the life of a project. Linear utility project disturbances, which include natural gas and electric transmission lines, typically consist of multiple disconnected areas of disturbance associated with access roads, stringing pull stations, laydown/staging yards, and pads. Because exit point stabilization is only required for points that exit onto paved roads, it will often be the case that exit point stabilization and the other track-out controls described in Parts 2.1.2.3.b [Part 2.2.4.b of the 2017 CGP] and 2.1.2.3.c [Part 2.2.4.c of the 2017 CGP] of the 2012 EPA CGP will not be required for linear utility projects that use existing unpaved roads to exit their work locations. However, to the extent that any sediment is tracked from existing access points onto paved roads, the requirement to remove tracked-out sediment in Part 2.1.2.3.d [Part 2.2.4.d of the 2017 CGP] still applies.

Linear utility projects are also often constructed in phases with different access points corresponding to different phases or separate work locations within each phase. When access points are created for linear utility projects, they are often constructed as short ingress/egress locations from nearby existing roads, and are often used episodically and only for very short durations over the life of the project. Therefore, the types of exit point stabilization and other controls that are appropriate for these types of access points may differ from construction projects where access points are used more heavily and consistently throughout the life of the project. Examples of exit point stabilization techniques and controls that may be appropriate for access points that are used episodically and only for very short durations by such linear utility projects could include, but are not limited to, the following:

- Using scheduling techniques to prevent the use of exit points during wet periods;
- Minimizing exit point use by keeping vehicles onsite to the maximum extent possible;
- Limiting exit point size to the width needed for vehicle usage and using scarifying and compaction techniques on the soil;
- Using woody vegetation chips from the clearance of shrubs and trees on the exit point surface;
- Avoiding locating exit points in environmentally sensitive areas (e.g., wetlands, karst areas, steep slopes); and
- Conducting routine inspections (e.g., daily on scheduled work days) at exit points to assess the need to implement the mitigation measures in Part 2.1.2.3.d [Part 2.2.4 of the 2017 CGP].

Exit point stabilization techniques must be selected to ensure that sediment track-out is minimized. To the extent that any sediment is tracked from the existing access point onto paved roads, all operators must ensure that it is removed consistent with the mitigation requirements in Part 2.1.2.3.d [Part 2.2.4.d of the 2017 CGP] (e.g., sweeping, shoveling, vacuuming, or other similar means). For all projects, the exit point stabilization and controls must be selected based on site-specific conditions to meet the overall requirement in Part 2.1.2.3 [Part 2.2.4 of the 2017 CGP] to minimize sediment track-out, and must take into account safety considerations. The controls that are selected must also be documented in the SWPPP.

Note that EPA no longer allows for hosing down or sweeping pollutants into a stormwater conveyance where it is connected to a sediment basin, sediment trap, or similarly effective controls. Upon further consideration, EPA is concerned that this practice will lead to these controls being compromised, and that a sweeping, shoveling, and vacuuming are standard and readily available approaches for removing sediment track-out.

Part 2.2.5: Manage Stockpiles or Land-Clearing Debris Piles

The requirements to control discharges from stockpiled sediment or soil are intended to prevent the discharge of sediment from stockpiled soil and dirt on the site.

Part 2.2.5	Permit Requirements
	Operators must manage stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil.

- a. Locate the piles outside of any natural buffers established under Part 2.2.1 and away from any stormwater conveyances, drain inlets, and areas where stormwater flow is concentrated;
- b. Install a sediment barrier along all downgradient perimeter area (e.g., include berms, dikes, fiber rolls, silt fences, sandbags, gravel bags, or straw bale);
- c. For piles that will be unused for 14 or more days, provide cover (e.g., tarps, blown straw and hydroseeding) or appropriate temporary stabilization (consistent with Part 2.2.14); and
- d. You are prohibited from hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or water of the U.S.

EPA made an edit to the wording of the sediment barriers requirement in the 2012 CGP to encourage operators to access the pile from the upgradient area in Part 2.2.5(b). This change is intended to eliminate the need to take down or run over any sediment barrier every time an operator needs to access the pile and ensure the downgradient perimeter protection would always be in place.

The required use of "appropriate temporary stabilization" will only apply when a pile is "inactive," whereas in the 2012 permit the requirement applies only "where practicable." The change better captures the intent of this provision to ensure that pollutant discharges are minimized as a result of storm events, while at the same time it addresses the practicability of these controls by limiting this requirement to times when the piles are inactive. It is EPA's judgment that cover or appropriate temporary stabilization for these piles, such as tarps, blown straw, and hydroseeding, are all readily available and common erosion and sediment control products and technologies that operators will likely already be using to comply with the stabilization requirements in Part 2.2.14. The use of these technologies for covering or temporarily stabilizing stockpiles when piles are inactive poses a small incremental cost relative to the total cost of all other stormwater controls on the site. In addition, some cover technologies, such as tarps, can be reused multiple times on the same site due to their durability and longevity.

Some states have similar requirements for stockpile cover or stabilization. For example, Delaware's sediment and stormwater regulations state that "Following soil disturbance or re-disturbance, Permanent or Temporary Stabilization shall be completed for perimeter sediment controls, topsoil stockpiles, and all other disturbed or graded areas on the project site within 14 calendar days unless more restrictive Federal requirements apply."⁴ Another example is in Minnesota's CGP, which states "The Permittee(s) must stabilize all exposed soil areas (including stockpiles). Stabilization must be initiated immediately to limit soil erosion whenever any construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days."⁵ North Dakota CGP stabilization

⁴ Delaware Department of Natural Resources and Environmental Control, Regulations Governing the Control of Water Pollution, Section 9.1.02, known as Special Conditions for Stormwater Discharges Associated with Construction Activities. Available at <http://regulations.delaware.gov/AdminCode/title7/5000/5101.pdf>

⁵ Minnesota Pollution Control Agency, General Permit Authorization to Discharge Stormwater associated with Construction Activity under the National Pollutant Discharge Elimination System/ State Disposal System Program. Available at <https://www.pca.state.mn.us/sites/default/files/wq-strm2-68a.pdf>

requirements for exposed soil also cover stockpiles that are not temporary, defined as land being idle for 14 or more calendar days.⁶

Note also that (d) no longer allows for hosing down or sweeping pollutants into a stormwater conveyance where it is connected to a sediment basin, sediment trap, or similarly effective controls due to the concern that this practice will lead to these controls being compromised.

Part 2.2.6: Minimize Dust

The requirement is intended to minimize the discharge of sediment in stormwater from the generation of dust.

Part 2.2.6	Permit Requirements
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On areas of exposed soil, the operator must minimize the generation of dust through the appropriate application of water or other dust suppression techniques <u>to control the generation of pollutants that could be discharged in stormwater from the site.</u>

Dust suppression techniques prevent dust from being generated, minimizing the potential for the dust to accumulate where it is likely to discharge from the site in stormwater discharges.

Part 2.2.7: Minimize Steep Slope Disturbances

The requirement in Part 2.2.7 implements the C&D rule requirement to "minimize the disturbance of steep slopes" at 40 CFR 450.21(a)(4).

Part 2.2.7	Permit Requirements
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The operator must minimize the disturbance of "steep slopes" (as defined in Appendix A).
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The permit does not prevent or prohibit disturbance on steep slopes. EPA recognizes that for some projects, disturbance on steep slopes may be necessary for construction (e.g., a road cut in mountainous terrain). If disturbances to steep slopes are required for the project, EPA would recognize that it is not feasible to avoid the disturbance of steep slopes. EPA also notes that the requirement to minimize the disturbance of steep slopes does not apply to the creation of soil stockpiles. EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning this requirement. See part 2.1.2.6 "Minimize the Disturbance of Steep Slopes" on pages 67 through 68 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

Part 2.2.8: Preserve Native Topsoil

Part 2.2.8 implements the C&D rule requirement to preserve topsoil, unless infeasible at 40 CFR 450.21(a)(8).

Part 2.2.8	Permit Requirements
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The operator must preserve native topsoil on the site, unless infeasible.

The requirement to preserve topsoil will help to maintain the soil structure on construction sites and provides a growing medium for vegetative stabilization measures. Better vegetative stabilization reduces erosion rates of the underlying soil and also increases the infiltrative capacity of the soil, thereby reducing the amount of sediment transported to downslope sediment and perimeter controls. Topsoil can be preserved by stockpiling the native topsoil on

⁶ North Dakota Department of Health, Authorization to Discharge Under the North Dakota Pollutant Discharge Elimination System - Stormwater Associated with Construction Activity, page 25. Available at <http://www.ndhealth.gov/WQ/Storm/Construction/NDR10per20150401F.pdf>

the site for later use (e.g., for vegetative stabilization), or by limiting disturbance and removal of the topsoil and associated vegetation. For example, topsoil can be preserved by limiting clearing and grading to only those areas where necessary to accommodate the building footprint. EPA notes that some projects may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases, EPA recognizes that preserving topsoil at the site would not be feasible. In addition, some sites may not have space to stockpile topsoil on site for later use, in which case, it may also not be feasible to preserve topsoil. EPA is aware that stockpiling of topsoil in off-site locations, or transfer of topsoil to other locations, is frequently used in these situations and EPA would view this as acceptable practice. However, EPA notes that stormwater discharges from any construction support activities meeting the requirements of Part 1.2.1.c will be subject to the permit requirements.

Part 2.2.9: Minimize Soil Compaction

Part 2.2.9 implements the C&D rule requirement to "minimize soil compaction." The requirement is intended to allow for infiltration and retention of stormwater to reduce stormwater discharge volume and velocity.

Part 2.2.9	Permit Requirements
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In any areas of the site where final vegetative stabilization will occur or where infiltration practices will be installed, the operator must:	
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| <ul style="list-style-type: none"> a. Restrict vehicle and equipment use in these locations to avoid soil compaction; and b. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth. | |
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To comply with this requirement, operators may either restrict vehicle and equipment use on areas that will be vegetatively stabilized or where infiltration practices will be installed, or use soil conditioning techniques to decompact soils to support vegetative growth. Specific types of soil conditioning techniques could include deep-ripping and decompaction or sub-soiling. EPA also notes that the requirement to minimize soil compaction does not apply to areas that will not be used for final vegetative stabilization or for areas where infiltration practices will not be installed. For example, the requirements do not apply to disturbed areas that will become paved surfaces, such as roads, foundations, footings, or on embankments, or on areas where soil compaction is necessary by design.

EPA notes that the requirement in (b) above is no longer conditioned on the feasibility of using soil conditioning or rehabilitation practices. In EPA's judgment, requiring these practices "as necessary" provides adequate flexibility to operators and does not significantly change the provision in the 2012 CGP. For example, in the 2012 CGP fact sheet, EPA explained that "the requirement to use soil conditioning techniques is not required in any area where it would not be feasible, such as on steep slope areas or any other areas where it is not safe for the required equipment." EPA would not find it to be "necessary" to use soil conditioning techniques in an area of the site where it was unsafe either because the required equipment is unable to be operated on steep slope areas or these areas are unlikely to be compacted in the first place given the safety concerns of operating heavy equipment in this area.

Part 2.2.10: Protect Storm Drain Inlets

Part 2.2.10 implements the C&D rule requirement to "minimize sediment discharges from the site" by requiring stormwater inlets to be protected with sediment controls during construction.

Part 2.2.10	Permit Requirements
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- a. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that carries stormwater flow from your site to a water of the U.S., provided you have authority to access the storm drain inlet; and
- b. Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

Inlet protection measures prevent sediment-laden stormwater from being discharged into storm drains, and ultimately surface waters. The maintenance requirements in (b) support the need for the inlet measures to be kept in working condition so that they are effective at preventing the discharge of pollutants. Note that inlet protection measures can be removed in the event of flood conditions or to prevent erosion.

Note that under the 2017 CGP, EPA requires installation of inlet protection measures to any storm drain inlet that carries stormwater flow from the site to a water of the U.S. that you have authority to access, even if it is first directed to a sediment basin, sediment trap, or similarly effective controls. EPA is concerned that if the sediment basin, sediment trap, or similarly effective controls were to be compromised, unprotected inlets that receive stormwater from these controls would also be compromised.

Part 2.2.11: Minimize Erosion of Stormwater Conveyances

Part 2.2.11 implements the C&D rule requirements to ~~"control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges,"~~ to "control stormwater discharges... to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points," ~~to "minimize the amount of soil exposed during construction activity,"~~ and to ~~"minimize the disturbance of steep slopes."~~

Part 2.2.11	Permit Requirements
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The operator must ~~control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points, minimize erosion of stormwater conveyance channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters. As part of this requirement, the operator must use erosion controls and velocity dissipation devices (e.g., check dams, sediment traps, riprap, and grouted riprap at outlets) within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion.~~

Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of a stormwater conveyance and at the outfall to slow down runoff.

Part 2.2.12: Sediment Basins or Similar Impoundment

Part 2.2.12 outlines the requirements that will apply to installation of sediment basins or similar impoundments.

Part 2.2.12	Permit Requirements
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If an operator installs a sediment basin:

- a. Situate the basin or impoundment outside of any water of the U.S. and any natural buffers established under Part 2.2.1;
- b. Design the basin or impoundment to avoid collecting water from wetlands;
- c. Design the basin or impoundment to provide storage for either:
 - i. The calculated volume of runoff from a 2-year, 24-hour storm (see Appendix H); or
 - ii. 3,600 cubic feet per acre drained.
- d. Utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;
- e. Use erosion controls and velocity dissipation devices, such as check dams, sediment traps, riprap, and grouted riprap at outlets, to prevent erosion at inlets and outlets; and
- f. Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure the basin or impoundment remains in effective operating condition.

Sediment basins are often used on construction sites to minimize sediment discharges. They are typically placed at or near low points of drainageways in order to temporarily detain stormwater discharges, allowing sediment particulates to settle. Sediment basins are also often designed to reduce peak flowrates, reducing downstream flooding and channel erosion. At the point of discharge, which is typically a pipe or channel, installation of riprap or other stabilization measures is often necessary because the concentrated discharge can cause erosion and additional pollutant discharges to waters of the U.S. Sediment basins are also often designed to reduce flow duration impacts by reducing the total volume of stormwater being discharged or by providing extended detention to reduce discharge rates. The purpose of the requirements in this part is to provide specific design and maintenance requirements for the proper implementation of sediment basins, if used on a site.

The requirements in (a) and (b) above are design specifications that have been included in the CGP since the 2003 permit. The requirement in (d) above implements the following C&D rule requirement: "When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible." EPA notes in the permit that the circumstances in which it will be infeasible to design outlet structures in this manner should be rare. Exceptions may include areas with extended cold weather and where using surface outlets may not be feasible during certain time periods (although it is expected that they would be used during other periods). If the operator determines that it is infeasible to meet this requirement, the operator must provide documentation in the SWPPP to support its determination, including the specific conditions or time periods when this exception will apply.

EPA also includes a requirement, subsection (e) above, to prevent erosion of the sediment basin and the inlet and outlet to implement the C&D rule requirement to "design, install and maintain effective erosion and sediment controls to minimize the discharge of pollutants," and the requirement to "control stormwater discharges ... to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points." The requirement in (f) above implements the C&D rule requirement to "maintain effective erosion controls and sediment controls to minimize the discharge of pollutants."

Part 2.2.13: Use of Treatment Chemicals

Part 2.2.13 establishes the minimum requirements that apply to the use of treatment chemicals at permitted construction sites.

Part 2.2.13	Permit Requirements
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If the operator will use polymers, flocculants, coagulants, or other treatment chemicals at the construction site, the operator must comply with the following minimum requirements.

- a. Use conventional erosion and sediment controls before and after the application of treatment chemicals. Chemicals may only be applied where treated stormwater is directed to a sediment control (e.g., *sediment basin, perimeter control*) before discharge.
- b. Select appropriate treatment chemicals. Chemicals must be appropriately suited to the types of soils likely to be exposed during construction and present in the discharges being treated (i.e., the expected turbidity, pH, and flow rate of stormwater flowing into the chemical treatment system or area).
- c. Minimize discharge risk from stored chemicals. Store all treatment chemicals in leak-proof containers that are kept under storm-resistant cover and surrounded by secondary containment structures (e.g., *spill berms, decks, spill containment pallets*), or provide equivalent measures designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means (e.g., *storing chemicals in a covered area, having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill*).
- d. Comply with state/local requirements. Comply with applicable state and local requirements regarding the use of treatment chemicals.
- e. Use chemicals in accordance with good engineering practices and specifications of the chemical provider/supplier. Use treatment chemicals and chemical treatment systems in accordance with good engineering practices, and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals, or document in your SWPPP specific departures from these specifications and how they reflect good engineering practice.
- f. Ensure proper training. Ensure that all persons who handle and use treatment chemicals at the construction site are provided with appropriate, product-specific training. Among other things, the training must cover proper dosing requirements.
- g. Perform additional measures specified by the EPA Regional Office for the authorized use of cationic chemicals. If you have been authorized to use cationic chemicals at your site pursuant to Part 1.1.9, you must perform all additional measures as conditioned by your authorization to ensure that the use of such chemicals will not cause an exceedance of water quality standards.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the agency's rationale supporting these requirements. See section "Use of Treatment Chemicals. (Part 2.1.3.3)" on pages 71 through 75 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

Part 2.2.14: Site Stabilization

Part 2.2.14 implements the C&D rule requirement for soil stabilization in 40 CFR 450.21(b). This part requires the operator to implement and maintain stabilization measures that minimize erosion from exposed portions of the site.

Part 2.2.14	Permit Requirements
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Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel) that minimize erosion from exposed portions of the site in accordance with the following:
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| <ol style="list-style-type: none"> a. Stabilization Deadlines: |
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Total Amount of Land Disturbance Occurring At Any One Time	Deadline
i. Five acres or less (≤ 5.0) Note: this includes sites disturbing more than five (>5.0) acres total over the course of a project, but that limit disturbance at any one time (i.e., phase the disturbance) to five acres or less (≤ 5.0)	- Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days; and - Complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated.
ii. More than five acres (>5.0)	- Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days; and - Complete the installation of stabilization measures as soon as practicable, but no later than seven (7) calendar days after stabilization has been initiated.

iii. Exceptions:

(a) Arid, semi-arid, and drought-stricken areas (as defined in Appendix A). If it is the seasonally dry period or a period in which drought is occurring, and vegetative stabilization measures are being used:

- (i) Immediately initiate, and within 14 calendar days of a temporary or permanent cessation of work in any portion of your site complete, the installation of temporary non-vegetative stabilization measures to the extent necessary to prevent erosion;
- (ii) As soon as practicable, given conditions or circumstances on the site, complete all activities necessary to seed or plant the area to be stabilized; and
- (iii) If construction is occurring during the seasonally dry period, indicate in your SWPPP the beginning and ending dates of the seasonally dry period and your site conditions. Also include the schedule you will follow for initiating and completing vegetative stabilization

(b) Operators that are affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization:

- (i) Immediately initiate, and within 14 calendar days complete, the installation of temporary non-vegetative stabilization measures to prevent erosion;
- (ii) Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on the site; and

- (iii) Document in the SWPPP the circumstances that prevent the operator from meeting the deadlines in Part 2.2.14.a and the schedule the operator will follow for initiating and completing stabilization.
 - (c) Discharges to a sediment- or nutrient-impaired water or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes. Complete stabilization as soon as practicable, but no later than seven (7) calendar days after stabilization has been initiated.
- b. Final Stabilization Criteria (for any areas not covered by permanent structures):
- i. Establish uniform, perennial vegetation (i.e., evenly distributed, without large bare areas) that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas; and/or
 - ii. Implement permanent non-vegetative stabilization measures (e.g., riprap, gravel, gabions, and geotextiles) to provide effective cover.
 - iii. Exceptions:
 - (a) Arid, semi-arid, and drought-stricken areas (as defined in Appendix A). If it is the seasonally dry period or a period in which drought is occurring, final stabilization is met if the area has been seeded or planted to establish vegetation that provides 70 percent or more of the cover that is provided by vegetation native to local undisturbed areas within three (3) years and, to the extent necessary to prevent erosion on the seeded or planted area, non-vegetative erosion controls have been applied that provide cover for at least three years without active maintenance.
 - (b) Disturbed areas on agricultural land that are restored to their preconstruction agricultural use. The Part 2.2.14.b final stabilization criteria does not apply.
 - (c) Areas that need to remain disturbed. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials).

EPA provides a definition in the 2012 CGP for "stabilization" as "the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process." Appendix A defines "temporary stabilization" and "final stabilization" as follows:

- "Temporary stabilization" means a condition where exposed soils or disturbed areas are provided temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.
- "Final stabilization" means that, on areas not covered by permanent structures, either (1) uniform, perennial vegetation (e.g., evenly distributed, without large bare areas) has been established, or for arid or semi-arid areas, will be established, that provides 70 percent or more of the cover that is provided by vegetation common to local undisturbed areas, and/or (2) permanent non-vegetative stabilization measures (e.g.,

riprap, gravel, gabions, and geotextiles) have been implemented to provide effective cover for exposed portions of the site.

In the C&D rule, EPA emphasizes the importance of effective and speedy stabilization of soils exposed throughout the construction process in order to reduce the amount of soil eroded on construction sites and the amount of sediment and other pollutants discharged from the site. EPA indicates in the rule that initiating soil stabilization measures immediately after land has been disturbed and construction activity has ceased is an important non-numeric effluent limitation. EPA also states that it "sees no compelling reason why permittees cannot take action immediately to stabilize disturbed soils on their sites" (see 74 Fed. Reg. 63005, December 1, 2009). EPA also observes that erosion control measures, such as mulch, are readily available and operators need only plan accordingly to have appropriate materials and laborers present when needed. *Ibid.*

Furthermore, "simply providing some sort of soil cover on these areas can significantly reduce erosion rates, often by an order of magnitude or more. Vegetative stabilization using annual grasses is a common practice used to control erosion. Physical barriers such as geotextiles, straw, rolled erosion control products and mulch and compost are other common methods of controlling erosion. Polymers (such as PAM) and soil tackifiers are also commonly used. These materials and methods are intended to reduce erosion where soil particles can be initially dislodged on a C&D site, either from rainfall, snow melt or up-slope runoff." See 74 Fed. Reg. 63012.

The permit carries forward these important principles and factors by incorporating specific provisions intended to implement the C&D rule's stabilization deadline requirements. The following section provides support for these provisions.

Stabilization Deadlines (Part 2.2.14.a)

- **Deadline to Initiate Stabilization**

The permit specifies that the operator must initiate the installation of soil stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or are temporarily inactive for 14 or more calendar days. EPA explains in the permit that, for the purposes of this provision, the term "immediately," as used to define the deadline for initiating stabilization measures, means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.

The permit also provides examples of activities that would constitute the immediate initiation of stabilization:

1. Prepping the soil for vegetative or non-vegetative stabilization as long as seeding, planting, and/or installation of non-vegetative stabilization products takes place as soon as practicable, but no later than 1 calendar day of completing soil preparation;
2. Applying mulch or other non-vegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the activities in # 1 – 3 on a portion of the entire area that will be stabilized; and
5. Finalizing arrangements to have stabilization product fully installed in compliance with the deadlines for completing stabilization.

It is important to clarify the C&D rule requirement by specifying what it means to have construction activities temporarily or permanently cease. It is also important for construction operators to understand that stabilization must begin immediately when there is no justification for leaving areas exposed. For example, if 14 days will pass between the time when clearing and grading has been completed and further construction activities will occur, there is no reason

why the exposed portions of the site cannot be stabilized temporarily to prevent erosion and sediment discharge during the time of inactivity on any portion of the site. EPA clarifies that the initiation of stabilization means that the operator has taken action to implement the stabilization measures, including, for example, finalizing arrangements to have the stabilization product delivered, scheduling the installation of the product, and/or prepping the soil.

- **Deadline to Complete Stabilization**

The C&D rule, at 40 CFR 450.21 (b), requires that a deadline to complete stabilization be established by each permit authority. As the permit authority for this CGP, EPA has established in the 2017 CGP what it deems to be a reasonable and unambiguous deadline for completing stabilization procedures. The 2017 CGP establishes a modified approach to the stabilization deadlines from the 2012 CGP based on the concept of phasing construction disturbances. The intent of this approach is to provide an incentive to disturb less land at any given period of time by providing longer stabilization timeframes if the disturbance is kept below a threshold level. The approach described below also provides improved protection against erosion, by ensuring that large disturbed areas are stabilized sooner. This approach is also consistent with the C&D rule requirement at 40 CFR 450.21 (a)(3) to "minimize the amount of soil exposed during construction activity."

The permit specifies that for sites that disturb a total of five acres or less (≤ 5.0) at any one time over the course of a project, the operator must complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated. This includes sites disturbing more than (> 5.0) acres total over the course of a project, but that limit disturbance at any one time to five acres or less (≤ 5.0). For sites that will disturb more than a total of five acres (> 5.0) at any one time over the course of a project, the operator must complete the installation of stabilization measures as soon as practicable, but no later than 7 calendar days after stabilization has been initiated. The deadline for sites discharging to sensitive waters remains unchanged from the 2012 CGP (within 7 calendar days), and the exceptions for sites in arid, semi-arid, and drought-stricken areas and for operator affected by circumstances beyond their control also remain unchanged from the 2012 CGP.

EPA notes that the agency may determine, based on an inspection carried out under Part 4.8 and corrective actions required under Part 5.3, that the level of sediment discharge on the site makes it necessary to require a faster schedule for completing stabilization. For instance, if sediment discharges from an area of exposed soil that is required to be stabilized are compromising the performance of existing stormwater controls, EPA may require stabilization to correct this problem.

For the purposes of the stabilization deadline requirements in Part 2.2.14.a, "limiting disturbances to five (5) acres or less at any one time" means that at no time during the project do the cumulative earth disturbances exceed five (5) acres. The permit provides the following examples as limiting disturbances at any one time to five (5) acres or less:

1. The total area of disturbance for a project is five (5) acres or less.
2. The total area of disturbance for a project will exceed five (5) acres, but the operator ensures no more than five (5) acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to "free up" land that can be disturbed without exceeding the 5-acre cap to qualify for the 14-day stabilization deadline. For instance, if an operator completes stabilization of two (2) acres of land on a five (5)-acre disturbance, then two (2) additional acres could be disturbed while still qualifying for the longer 14-day stabilization deadline.

Furthermore, the stabilization deadline for a site will change if disturbances exceed five (5) acres. The important determiner of which stabilization deadline applies is the total amount of

disturbance occurring at any one time during the course of the project. If at any point during the course of the project, total land disturbance exceeds five (5) acres, the deadline to complete stabilization for this portion of the project is within seven (7) calendar days of initiating stabilization. This deadline applies regardless of the fact that a previous phase of construction may have limited disturbance to five (5) acres or less and was able to take advantage of the 14-day deadline for stabilization. For instance, if an operator commences work on a 20-acre project by clearing and grading a five (5)-acre portion of the site, and while that construction is ongoing and prior to stabilization the operator clears and grades another three (3)-acre area, the operator must comply with the seven (7)-day stabilization deadline because the amount of disturbed area on the site at any one time exceeds the five (5)-acre threshold. If total land disturbance at any one time is subsequently reduced to five (5) acres or less, the deadline to complete stabilization will return to within 14 calendar days. Therefore operators have the flexibility to disturb more land when necessary, but must stabilize faster because more land is unprotected and vulnerable to erosion and sediment transport during storm events. This approach intends to provide the incentive to stabilize enough land to bring total disturbance at any one time back under the five (5)-acre threshold so that the operator can resume receiving the benefit of the longer 14-day stabilization deadline. The approach is also intended to ensure greater protection for larger areas of site disturbance.

Background on the Development of the Modified Stabilization Deadlines

In developing the new approach to the stabilization deadlines in Part 2.2.14.a, EPA noted that permitting authorities have considerable discretion with respect to the implementation of the C&D rule related to the stabilization requirements. For example, 40 CFR 450.21 (b) provides permitting authorities with the ability to establish specific deadlines by which stabilization must be completed. Using this authority, EPA has developed what it considers to be reasonable deadlines for the completion of stabilization that provide appropriate flexibility to operators while strengthening water quality protections in the permit in order to ensure discharges meet water quality standards.

In the proposed 2017 CGP, EPA requested public comment on modifying the deadline to complete stabilization from 14 calendar days to 7 calendar days after stabilization has been initiated (except for sites in arid, semi-arid, and drought-stricken areas and for operators affected by circumstances beyond their control). Based on public input, EPA determined that a uniform seven (7)-day deadline would not be workable in certain scenarios and that a more flexible approach should be considered for the final permit that would address a range of public concerns that timely and effective site stabilization is one of the most important practices for reducing sediment pollution in stormwater. EPA was particularly interested and encouraged by public comments to consider the concept of construction phasing or limiting land disturbances at any one time.

Industry literature recognizes that sequencing construction to reduce areas of disturbance and timely stabilization of disturbed areas are some of the best and typically least expensive solutions to minimize the potential for off-site impacts from construction site runoff.⁷ Pitt et al. (2007) states that stabilization practices are usually considered the most effective for erosion control, "especially when used in conjunction with a good phasing plan to minimize the amount of land being disturbed at any one time." Limiting land disturbances is also considered a top priority for construction stormwater control measures in the National Research Council's report, *Urban Stormwater Management in the United States*.⁸

⁷ Pitt, Robert; S.E. Clark, D. Lake. 2007. *Construction Site Erosion and Sediment Controls – Planning, Design and Performance*. DEStech Publications Inc. ISBN No. 1-932078-38-X. Lancaster, PA.

⁸ National Research Council (2008). *Urban Stormwater Management in the United States*. Washington, D.C.: The National Academies Press.

Phasing or limiting land disturbance is already a regular requirement within state-issued CGPs or other specifications or regulations concerning the control of construction stormwater. EPA found that 22 states had requirements that included a narrative disturbance limit, for example, "[t]he Permittee shall design, install, and maintain effective erosion controls and sediment controls, appropriate for site conditions to, at a minimum... minimize the amount of soil exposed during construction activity through the use of project phasing or other appropriate techniques".⁹ Five states¹⁰ require some type of disturbance limit, contained an explicit numeric threshold, such as "In no case shall the area of disturbance draining to a common discharge point exceed 20 acres. Grading of subsequent sections within that drainage area shall not proceed unless temporary or permanent stabilization has been accomplished such that the 20 acre limit of disturbance is maintained",¹¹ or "The owner or operator of a construction activity shall not disturb greater than five (5) acres of soil at any one time without prior written authorization from the Department..."¹²

After determining that a disturbance threshold is a basic and common part of good erosion and sediment control programs and was a reasonable consideration for EPA's CGP, the agency then investigated what an appropriate disturbance threshold would be and how a phasing approach could be incorporated into the stabilization deadline structure.

EPA found support for the adoption of a five (5)-acre disturbance threshold in its research. First, EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15) distinguish "construction activity" and "small construction activity" by area disturbed, where "construction activity" ultimately disturbs 5 acres or more and "small construction activity" disturbs between 1 and 5 acres, or less than an acre if the land area is part of a common plan of development or sale that will ultimately disturb more than 1 acre. Second, data from the 2012 CGP also showed that 5 acres was the median area disturbed. This means that, for sites covered under the 2012 CGP, approximately 50 percent of sites were less than 5 acres and 50 percent of sites were more than 5 acres.

Third, EPA considered the level of effort required to plan, implement, and maintain temporary sediment controls in selecting an appropriate threshold for expedited stabilization. These considerations included an examination of the quantitative erosional effects of increases in the disturbed area, as expressed by conventional soil loss estimation techniques. For example, the Revised Universal Soil Loss Equation (RUSLE) predicts sediment loss on a ton-per-acre basis, using inputs derived from values representing the rainfall and runoff factor (R), the soil erodibility factor (K), the length of the slope (L), the steepness of the slope (S), the soil cover (C), and practices to manage erosion (P). Because the results of the RUSLE equation are expressed as average annual soil losses in tons per acre per year, there is a geometric increase in total erosional soil loss as the size of the disturbed area increases.

For example, for sites with identical RUSLE conditions, a two (2)-acre site will have twice the soil loss as a one (1)-acre site, a four (4)-acre site will have twice the soil loss as a two (2)-acre site, and so on. The level of effort required to control erosion and sediment loss on a construction site may not expand quite as geometrically as RUSLE soil loss estimates, but they are roughly

⁹ Alabama Department of Environmental Management, NPDES General Permit for Discharges from Construction Activities. Available at <http://www.adem.state.al.us/programs/water/waterforms/ALR10CGP.pdf>

¹⁰ Connecticut, Delaware, New York, Tennessee, and Maryland.

¹¹ Delaware Department of Natural Resources and Environmental Control, Regulations Governing the Control of Water Pollution, Section 9.1.02, known as Special Conditions for Stormwater Discharges Associated with Construction Activities. Available at <http://regulations.delaware.gov/AdminCode/title7/5000/5101.pdf>

¹² New York Department of Environmental Conservation, SPDES General Permit For Stormwater Discharges from Construction Activity. Available at http://www.dec.ny.gov/docs/water_pdf/gp015002.pdf

parallel. For example, the amount of straw mulch or erosion control blanket or seed needed to cover a given amount of land at a given rate will expand geometrically, but there may be some minor labor cost savings resulting from an economy-of-scale effect when applying these products to larger and larger areas.

Thus, for all practical purposes, it is clear that the level of effort required to manage erosion and sediment controls on construction sites are roughly commensurate with the size of the site – e.g., a five (5)-acre site will require four or five times as much effort as a one (1)-acre site. As sites become larger – for example, more than five acres – the daily and weekly tasks of inspecting, operating, repairing, and maintaining temporary stormwater controls (e.g., silt fences, fiber logs, sediment traps, sediment basins, stabilized site exits, diversion berms, ditches) expands. Operators engaged in constructing buildings, roadways, and other infrastructure face increasing challenges in redirecting resources to manage ever-larger disturbed areas, hence the narrative requirement to limit the extent of the disturbed area and the time of exposure found in many state permits, as noted above.

Combining the importance of timely soil stabilization techniques, the influence of soil cover on soil erosion rates,¹³ the benefits of limiting land disturbances, and analytical considerations supporting a five (5)-acre threshold, EPA developed the modified stabilization deadline approach required in the permit. This approach requires that sites with a disturbed area of five (5) acres or less at any one time must complete stabilization within a 14-day timeframe, which is the same timeframe that applied to sites in the 2012 CGP. For sites that disturb more than 5 acres at any one time, operators have the flexibility to choose between completing stabilization within a 14-day timeframe if they limit disturbances to 5 acres or less at any one time, or within a 7-day timeframe if they do not limit disturbances to 5 acres or less at any one time. The benefits of this approach include limiting mass grading, improving phasing and sequencing, encouraging timely site stabilization, and reducing the areal scope of stormwater management, all of which can help minimize the conditions that allow soil to be washed off-site during a storm event.

- Exceptions to the Deadlines for Initiating and Completing Stabilization

EPA notes that with respect to the exception to the final stabilization criteria for restored agricultural areas, the permit retains the requirement from the 2012 CGP that areas disturbed that were not previously used for agricultural activities, and areas that are not being returned to preconstruction agricultural use, are not covered by the exception in Part 2.2.14.b.iii and must meet the conditions for stabilization.

EPA acknowledges that some portions of some projects are intended to be left unvegetated or unstabilized following construction. An example would be a dirt access road or a utility pole pad where the final plan calls for the area to remain a dirt road or an unstabilized pad. EPA does not expect temporary or permanent stabilization measures to be applied to these areas. EPA notes that for the purposes of this permit, "exposed portions of your site" means areas of exposed soil that are required to be stabilized.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning the unmodified portion of these requirements. See section VII.2 "Stabilization Requirements (Part 2.2)" on pages 76 through 82 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

¹³ See Chapter 5 of EPA's *Development Document For Final Effluent Guidelines and Standards for the Construction and Development Category*. Available at https://www.epa.gov/sites/production/files/2015-06/documents/construction_development_dd_2009_chapters_1-11.pdf

Part 2.3: Pollution Prevention Requirements

Part 2.3 implements the C&D rule requirements in 40 CFR 450.21 (d) and (e) for pollution prevention measures and prohibited discharges.

Part 2.3	Permit Requirements
The permit requires operators to implement pollution prevention controls in accordance with the requirements in Part 2.3 to minimize the discharge of pollutants in stormwater and to prevent the discharge of pollutants from spilled or leaked materials from construction activities.	

Part 2.3.1: Equipment and Vehicle Fueling and Maintenance Requirements

Part 2.3.1 implements the 40 CFR 450.21 (d)(3) requirement to "minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures" and the 40 CFR 450.21 (e)(3) requirement prohibiting the discharge of "fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance."

Part 2.3.1	Permit Requirements
The operator must comply with the following requirements: a. Provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuels and oils, from these activities; b. If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR part 112 and Section 311 of the CWA; c. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids; d. Use drip pans and absorbents under or around leaky vehicles; e. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements; and f. Clean up spills or contaminated surfaces immediately, using dry clean up measures (do not clean contaminated surfaces by hosing the area down), and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.	

Examples of effective means of eliminating the discharge of spilled or leaked chemicals include, but are not limited to, locating activities away from waters of the U.S. and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach waters of the U.S.; providing secondary containment (e.g., spill berms, decks, spill containment pallets) and cover where appropriate; and having a spill kit available on site and ensuring personnel are available to respond expeditiously in the event of a leak or spill.

Part 2.3.2: Equipment and Vehicle Washing Requirements

Part 2.3.2 implements the 40 CFR 450.21 (d)(1) requirement to "Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge."

Part 2.3.2	Permit Requirements
The operator must comply with the following requirements:	

- a. Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of wash waters;
- b. Ensure there is no discharge of soaps, solvents, or detergents in equipment and vehicle wash water; and
- c. For storage of soaps, detergents, or solvents, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these detergents to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.

The requirement that operators must properly manage wash waters reduces the discharge of pollutants, such as sediment and other pollutants, from the site. Examples provided in the permit for providing an effective means of minimizing the discharge of pollutants from the washing of equipment or vehicles include, but are not limited to, locating activities away from surface waters and stormwater inlets or conveyances and directing wash waters to a sediment basin or sediment trap, using filtration devices, such as filter bags or sand filters, or using other similarly effective controls. This requirement also implements the 40 CFR 450.21(e)(4) prohibition against discharging soaps or solvents, and is consistent with the eligibility condition that allows the use of non-stormwater wash waters as long as they do not contain soaps, solvents, or detergents.

Part 2.3.3: Storage, Handling, and Disposal Requirements

Part 2.3.3 requires operators to comply with specific pollution prevention standards for activities that may result in pollutant discharges.

Part 2.3.3 Permit Requirements

The operator must comply with the following requirements:

- a. *For building materials and building products (e.g., asphalt sealants, copper flashing, roofing materials, adhesives, concrete admixtures, and gravel and mulch stockpiles), provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.*
Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).
- b. *For pesticides, herbicides, insecticides, fertilizers, and landscape materials:*
 - i. In storage areas, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these chemicals to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas; and
 - ii. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label (see also Part 2.3.5).
- c. *For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:*
 - i. Store chemicals in water-tight containers, and provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas (e.g., having a spill kit available on site and ensuring personnel are available to respond expeditiously

- in the event of a leak or spill*), or provide secondary containment (e.g., *spill berms, decks, spill containment pallets*); and
- ii. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. The operator is prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.
- d. *For hazardous or toxic wastes:*
- i. Separate hazardous or toxic waste from construction and domestic waste;
 - ii. Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, tribal, or local requirements;
 - iii. Store all outside containers within appropriately-sized secondary containment (e.g., *spill berms, decks, spill containment pallets*) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in a covered area, having a spill kit available on site);
 - iv. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal, state, tribal, and local requirements;
 - v. Clean up spills immediately, using dry clean-up methods, and dispose of used materials properly. The operator is prohibited from hosing the area down to clean surfaces or spills. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and
 - vi. Follow all other federal, state, tribal, and local requirements regarding hazardous or toxic waste.
- e. *For construction and domestic wastes:*
- i. Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes;
 - ii. Keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);
 - iii. On business days, clean up and dispose of waste in designated waste containers; and
 - iv. Clean up immediately if containers overflow.
- f. *For sanitary waste*, position portable toilets so that they are secure and will not be tipped or knocked over, and located away from waters of the U.S. and stormwater inlets or conveyances.

EPA incorporates by reference the discussion in the 2012 CGP fact sheet concerning these requirements. See section VII.3.3 "Pollution Prevention Standards (Part 2.3.3)" on pages 83 through 87 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

Note that the requirement in e.ii is a modification to the construction and domestic waste requirements in the 2012 CGP. Even though a cover requirement was included for most of the other types of materials and wastes in the 2012 permit (e.g., building products; pesticides,

herbicides, insecticides, etc.; diesel fuel, oil, hydraulic fluids, other petroleum products and other chemicals; and hazardous or toxic wastes), EPA had inadvertently not included such a requirement for construction and domestic wastes. This modification corrects this prior oversight so that the cover requirements are consistent for most types of materials and wastes.

The change better captures the intent of this provision to ensure that pollutant discharges are minimized as a result of storm events, while at the same time it addresses the practicability of using these controls by limiting this requirement to when containers are not in use or at the end of the business day for those containers that are actively used throughout the day. It is EPA's judgment that cover for construction and domestic waste containers such as tarps, plastic sheeting, and temporary roofs, are available industry control technologies that operators can easily purchase or request from waste container rental agencies. The use of these technologies for covering waste containers poses a small incremental cost relative to the total cost of all other stormwater controls on the site. In addition, some cover technologies, such as tarps, can be reused multiple times on the same site due to their durability and longevity. Some states have similar requirements for covering waste containers. For example, Arizona's CGP states that for construction and domestic wastes, operators must provide dumpsters or trash receptacles with covers or lids of sufficient size and number to contain construction and domestic wastes.¹⁴ Additionally, construction discharges in California must implement good housekeeping measures for waste management, which includes covering waste disposal containers at the end of every business day and during a rain event.¹⁵

Part 2.3.4: Applicator and Container Washing Requirements

Part 2.3.4 implements the requirements of 40 CFR 450.21(e)(1) and (e)(2). The requirements apply to the washing of applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials.

Part 2.3.4	Permit Requirements
a.	Direct wash water into a leak-proof container or leak-proof and lined pit designed so that no overflows can occur due to inadequate sizing or precipitation;
b.	Handle washout or cleanout wastes as follows: i. Do not dump liquid wastes in storm sewers or waters of the U.S.; ii. Dispose of liquid wastes in accordance with applicable requirements in Part 2.3.3; and iii. Remove and dispose of hardened concrete waste consistent with your handling of other construction wastes in Part 2.3.3; and
c.	Locate any washout or cleanout activities as far away as possible from waters of the U.S. and stormwater inlets or conveyances, and, to the extent feasible, designate areas to be used for these activities and conduct such activities only in these areas.

¹⁴ Arizona Department of Environmental Quality, Arizona Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction Activity to Waters of the United States. Available at http://legacy.azdeq.gov/environ/water/permits/download/2013_cgp.pdf

¹⁵ State Water Resources Control Board, Construction General Permit Fact Sheet. Available at http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wgo_2009_0009_complete.pdf

Part 2.3.5: Fertilizer Application Requirements

The fertilizer discharge restrictions in Part 2.3.5 are included to prevent the discharge of nutrients in stormwater and to further implement the C&D rule requirement to "minimize the discharge of pollutants" at 40 CFR 450.21(d).

Part 2.3.5	Permit Requirements
The following requirements apply if the operator will be applying fertilizer on the construction site: a. Apply at a rate and in amounts consistent with manufacturer's specifications, or document in the SWPPP departures from the manufacturer specifications where appropriate in accordance with Part 7.2.6.b.ix; b. Apply at the appropriate time of year for your location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth; c. Avoid applying before heavy rains that could cause excess nutrients to be discharged; d. Never apply to frozen ground; e. Never apply to stormwater conveyance channels; and f. Follow all other federal, state, tribal, and local requirements regarding fertilizer application.	

EPA includes specific guidelines to follow regarding fertilizer application, which are meant to minimize any potential discharge of excess or improperly applied fertilizers.

Part 2.3.6: Emergency Spill Notification

Part 2.3.6 prohibits the discharge of toxic or hazardous substances from a spill or other release and requires operators to comply with federal reporting requirements of 40 CFR Part 110, Part 117, and Part 302 in the event that a leak, spill, or other release contains a toxic or hazardous substance in an amount equal to or in excess of a reportable quantity.

Part 2.3.6	Permit Requirements
The permit prohibits operators from discharging toxic or hazardous substances from a spill or other release. Furthermore, where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302 occurs during a 24-hour period, the operator must notify the National Response Center (NRC) at (800) 424-8802 or, in the Washington, DC metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302 as soon as the operator has knowledge of the release. Operators must also, within seven (7) calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release. State, tribal, or local requirements may necessitate additional reporting of spills or discharges to local emergency response, public health, or drinking water supply agencies.	

Part 2.4: Construction Dewatering Requirements

Part 2.4 implements the C&D rule requirement that prohibits "discharges from dewatering activities, including discharges from dewatering of trenches and excavations" unless managed by "appropriate controls."

Part 2.4 (2.4.1 – 2.4.7)	Permit Requirements
The operator must comply with the following requirements to minimize the discharge of pollutants in ground water or accumulated stormwater that is removed from excavations,	

trenches, foundations, vaults, or other similar points of accumulation, in accordance with Part 1.2.2 of the permit:

- 2.4.1** Treat dewatering discharges with controls to minimize discharges of pollutants (e.g., appropriate controls include sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, filtration systems (e.g., bag or sand filters) and passive treatment systems that are designed to remove sediment; appropriate controls to use downstream of dewatering controls to minimize erosion include vegetated buffers, check dams, riprap, and grouted riprap at outlets);
- 2.4.2** Do not discharge visible floating solids or foam;
- 2.4.3** Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;
- 2.4.4** To the extent feasible, use vegetated, upland areas of the site to infiltrate dewatering water before discharge. The operator is prohibited from using waters of the U.S. as part of the treatment area;
- 2.4.5** At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.2.11;
- 2.4.6** With backwash water, either haul it away for disposal or return it to the beginning of the treatment process; and
- 2.4.7** Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.

The specific restrictions in Part 2.4 provide the permit's interpretation of what is meant by "appropriate controls" in the C&D rule. These specific requirements, in part, also implement the C&D rule requirements to control peak flowrates and total stormwater volume (40 CFR 450.21(a)(2)), to minimize sediment discharges (40 CFR 450.21(a)(5)), and to direct stormwater to vegetated areas (40 CFR 450.21(a)(6)).

Part 3: Water Quality-Based Effluent Limitations

This CGP includes water quality-based effluent limits (WQBELs) to control discharges as necessary to meet applicable water quality standards. The provisions of Part 3 constitute the WQBELs of the permit, and supplement the permit's technology-based effluent limits in Part 2.

Part 3.1: General Effluent Limitation to Meet Applicable Water Quality Standards

Part 3.1 requires that all operators control their stormwater discharges as necessary to meet applicable water quality standards, consistent with 40 CFR 122.44(d)(1).

Part 3.1	Permit Requirements
	The permit requires discharges of stormwater to be controlled as necessary to meet applicable water quality standards, including meeting any specific water quality-based conditions or limits required by states, tribes, and U.S. territories in Part 9. In the absence of information demonstrating otherwise, EPA expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time the operator becomes aware, or EPA determines, that the discharge is not being controlled as necessary to meet applicable water quality standards, the operator must take corrective action as required in Parts 5.1 and 5.2, and document the corrective actions as required in Part 5.4. EPA may also insist that the operator install additional controls (to meet the narrative water quality-based effluent limit above) on a site-specific basis, or require the operator to obtain

coverage under an individual permit, if information in the NOI or from other sources indicates that the operator's discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in an EPA-established or approved TMDL.

If during the operator's coverage under a previous permit, the operator was required to install and maintain stormwater controls specifically to meet the assumptions and requirements of an EPA-approved or established TMDL (for any parameter) or to otherwise control the discharge to meet water quality standards, the operator must continue to implement such controls as part of coverage under this permit.

To support EPA's expectation that compliance with the conditions and effluent limitations in this permit will result in discharges that meet applicable water quality standards, the permit includes additional water quality-based effluent limitations, which, in combination with the technology-based effluent limits in Part 2, EPA expects to be as stringent as necessary to achieve water quality standards. These additional WQBELs will apply in the permit where EPA has determined that discharges from construction sites may have the reasonable potential to cause or contribute to exceedances of applicable water quality standards, such as when a waterbody is impaired for sediment or nutrients, which are parameters associated with stormwater discharges from construction sites. The fact sheet discusses these additional requirements below for Part 3.2.

Part 3.2: Discharge Limitations for Sites Discharging to Sensitive Waters

Part 3.2 informs operators that the requirements in Parts 4.3 and 2.2.14.a.iii apply if the operator discharges to a water impaired for sediment or a sediment-related parameter, and/or nutrients, or to a water that is identified by the state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes.

Part 3.2	Permit Requirements
	For any portion of the site that discharges to a sediment or nutrient-impaired water or to a water that is identified by the state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes, the operator must comply with the inspection frequency specified in 4.3, and with the stabilization deadline specified in Part 2.2.14.a.iii.(c).¹⁶ If the operator discharges to a water that is impaired for a parameter other than a sediment-related parameter or nutrients, EPA will inform you if any additional controls are necessary for your discharge to be controlled as necessary to meet water quality standards, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is necessary. In addition, on a case-by-case basis, EPA may notify operators of new sites or operators of existing sites with increased discharges that additional analyses and/or stormwater controls, or other measures, are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary. If you discharge to a water that is impaired for polychlorinated biphenyls (PCBs) and are engaging in demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, you must: Implement controls to minimize the exposure of PCB-containing building materials, including paint, caulk, and pre-1980 fluorescent lighting fixtures, to precipitation and to stormwater; and

¹⁶ If you qualify for any of the reduced inspection frequencies in Part 4.4, you may conduct inspections in accordance with Part 4.4 for any portion of your site that discharges to a sensitive water.

- b. Ensure that disposal of such materials is performed in compliance with applicable state, federal, and local laws.

The permit explains what is meant by discharges to "impaired waters" or discharges to Tier 2, 2.5, or 3 waters as follows:

"Impaired waters" are those waters identified by the state, tribe, or EPA as not meeting an applicable water quality standard and (1) requires development of a TMDL (pursuant to section 303(d) of the CWA; or (2) is addressed by an EPA-approved or established TMDL; or (3) is not in either of the above categories but the waterbody is covered by a pollution control program that meets the requirements of 40 CFR 130.7(b)(1). Your construction site will be considered to discharge to an impaired water if the first water of the U.S. to which you discharge is an impaired water for the pollutants contained in the discharge from your site. For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system. For assistance in determining whether your site discharges to impaired waters, EPA has developed a tool that is available both within the electronic NOI form in NeT, and at <https://water.epa.gov/polwaste/npdes/stormwater/discharge.cfm>.

Tiers 2, 2.5 and 3 refer to waters either identified by the state as high quality waters or Outstanding National Resource Waters under 40 CFR 131.12(a)(2) and (3). For the purposes of this permit, you are considered to discharge to a Tier 2, Tier 2.5, or Tier 3 water if the first water of the U.S. to which you discharge is identified by a state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3. For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first water of the U.S. that receives the stormwater discharge from the storm sewer system. See list of Tier 2, Tier 2.5, and Tier 3 waters in Appendix F.

EPA may determine on a case-by-case basis that a site discharges to a sensitive water.

The rationale for the more stringent impaired waters requirements was explained in the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf, as follows:

Frequency of Site Inspections. ... It is EPA's judgment that these modified inspection requirements will enhance the operator's ability to find and correct problems before a discharge of pollutants to the impaired water occurs.

Deadline to Complete Stabilization. ... It is EPA judgment that, in waters already degraded for pollutants associated with construction activities, further reducing the amount of time that exposed soil is left in an unstabilized state is especially important for limiting the sediment and/or nutrient load to these waters. The faster stabilization requirement for areas discharging to sediment and nutrient-impaired waters is designed to minimize the erosion and sedimentation that is associated with large, exposed areas.

EPA specifically anticipated that a stricter stabilization timeframe would be within the permitting authority's discretion in implementing the 40 CFR 450.21(b) requirement of the C&D rule. In the preamble to the C&D rule, EPA explained that "the permitting authority may determine it necessary for operators to initiate soil stabilization measures when construction activity has permanently or temporarily ceased and will not resume for a period exceeding 7 calendar days, as opposed to 14 calendar days".

The rationale for the more stringent requirements for Tier 2, 2.5, and 3-designated waters was explained in the 2012 CGP fact sheet as follows:

As stated in Part 3.1 of the [2012] permit, in the absence of information demonstrating otherwise, EPA expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards (which include state antidegradation requirements). More specifically, by imposing on operators that discharge to Tier 2, Tier 2.5, or Tier 3 waters the requirement to comply with the additional requirements, on top of the permit's other effluent limits and conditions, to stabilize exposed areas faster and to conduct more site inspections than other sites, it is EPA's judgment that authorizing these discharges will not result in a lowering of water quality. Thus, EPA has determined that compliance with the CGP generally will be sufficient to satisfy Tier 2 (or 2.5) and Tier 3 antidegradation requirements because the controls will not result in a lowering of water quality, making individualized Tier 2 or Tier 3 review unnecessary, assuming of course that the discharger is in compliance with any other applicable state or tribal antidegradation conditions that are included in Part 9 of the permit. Furthermore, the controls in the permit are sufficiently stringent that they would generally satisfy the requirement at the heart of Tier 2 review, that the discharge is necessary to accommodate important economic or social development in the area where the discharge is located. Construction is usually important to economic and social development, and the controls already required in Part 2 of this permit have been identified by EPA in its effluent limitations guideline for the construction and development category as the level of pollutant abatement that is the best available technology economically achievable. However, in cases where information submitted with the NOI, or available from other sources, indicates that further Tier 2 or Tier 3 review and/or conditions are necessary either for a new project or an existing project with a significantly increased discharge, EPA will conduct this review and require any appropriate additional controls.

The conclusion that compliance with the CGP will generally meet the Tier 2 and Tier 3 antidegradation requirements depends on several key aspects of the permit. First, all construction sites that will be subject to this permit must meet the stringent general effluent limits set out in Part 2. Through compliance with these limits alone, EPA expects that the discharge of pollutants will be reduced and/or eliminated so that there should not be a lowering of water quality. EPA bases this conclusion in part on the fact that the limits in this permit are based on the nationally-developed effluent limitations guidelines process that defined the BAT/BCT/BPT and NSPS level of control. EPA also is imposing on these sites the requirement to meet even more stringent controls defined in 4.1.3 [of the 2012 CGP] (more frequent inspections) and 2.2.1.3c [of the 2012 CGP] (stricter stabilization deadlines). Furthermore, once installed and implemented, the operator is obligated to maintain these controls and to correct deficiencies where inspection determines that deficiencies exist. Where EPA determines through its oversight activities (e.g., onsite inspection) that a discharger is not meeting its limits, such a deficiency will constitute a violation of the permit and will require follow-up corrective action pursuant to Part 5.2.1.3 [of the 2012 CGP].

Second, there may very well be individual cases where EPA determines that further controls are necessary or that coverage under the CGP is no longer appropriate to protect the Tier 2, 2.5, or 3 status of the receiving water. For this reason, EPA has included the following language in Part 3.3.2 [of the 2012 CGP]: "on a case-by-case basis, EPA may notify operators of such new projects or

operators of existing projects with significantly increased discharges that additional analyses, stormwater controls, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary in accordance with Part 1.4.5 [of the 2012 CGP]." It is anticipated that if EPA decides to require a Tier 2 or Tier 3 review for a particular new project or an existing project with a significantly increased discharge, EPA may either change the terms of coverage or terminate CGP coverage and require an individual permit.

Part 3.2 also clarifies that operators will be informed if any additional controls are necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in the TMDL. These provisions are intended to implement the requirements of 40 CFR 122.44(d)(1)(vii)(B), which requires that water quality-based effluent limits in permits be "consistent with the assumptions and requirements of any available wasteload allocation for the discharge" and of 40 CFR 122.4(i), which contains requirements regarding the issuance of permits for new sources.

Part 3.2 also clarifies when discharges from construction sites are discharging to an impaired water. EPA added such clarification due to uncertainty among the regulated community as to how to determine whether a site discharges to an impaired water.

Part 3.2 also includes a new requirement for operators discharging to waters impaired for polychlorinated biphenyls (PCBs) to implement controls to minimize the exposure of building materials containing polychlorinated biphenyls (PCBs) to precipitation and stormwater during demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980. Buildings and structures originating or remodeled between the years of 1950-1979 often contain polychlorinated biphenyls (PCBs) in materials such as caulk and paint. Without proper controls, the demolition of such structures can cause PCBs to be released into the environment and discharged into waters of the U.S. during storm events. To address this concern, Part 3.2 requires controls to be implemented to minimize exposure of building materials containing PCBs to precipitation and stormwater, and to ensure that such materials are disposed in compliance with applicable state, federal, and local laws. The requirement is limited to the demolition of buildings or structures with at least 10,000 square feet of floor space built or renovated before January 1, 1980 on sites that discharge to PCB-impaired waters. This requirement helps to ensure that authorized discharges will meet WQS.

The presence of PCBs in certain building components, especially in caulk and fluorescent light bulbs, has been a focus of EPA's research over the past several years. The following is a summary of the findings from EPA studies establishing the presence of PCBs in building materials, particularly in school buildings:

- Caulk put in place between 1950 and 1979 may contain as much as 40 percent PCBs and can emit PCBs into the surrounding air. PCBs from caulk may also contaminate adjacent materials such as masonry or wood.
- Fluorescent lighting fixtures that still contain their original PCB-containing light ballasts have exceeded their designed lifespan, and the chance for rupture and emitting PCBs is significant. Sudden rupture of PCB-containing light ballasts may result in exposure to the occupants and may also result in the addition of significant clean-up costs.
- Some building materials (e.g., paint and masonry walls) and indoor dust can absorb PCB emissions and become potential secondary sources for PCBs. When the primary PCB-emitting sources are removed, the secondary sources often emit PCBs.

See EPA's webpage, *Polychlorinated Biphenyls (PCBs) in Building Materials*, located at <https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials>, for more information.

Releases of PCBs into the environment from building materials containing PCBs has also been well studied in certain regions of the country. In Washington State, stormwater was identified as the largest delivery pathway to surface waters for PCBs. Washington's "PCB Chemical Action Plan" identifies PCBs in caulk and paint as the second largest source of PCBs, accounting for 87 metric tons of PCBs in WA, with 160 kg/yr. released to the environment.¹⁷ The Plan states that "Releases from building materials can be greatly accelerated during remodeling and demolition. There is an opportunity, through use of best management practices, to prevent releases of PCBs during remodeling and demolition."

Another Washington State Department of Ecology report, focusing on the Puget Sound Basin,¹⁸ estimates 59 metric tons of PCBs are in building sealants in that area with about 110 kg released annually. This is likely an underestimate because the report did not consider all uses in buildings, e.g., windows, uses in residential buildings, or in other structures, such as bridges and sidewalks.

Building materials and caulk were also found to be potential sources of PCBs at both the Lower Duwamish Waterway¹⁹ and Commencement Bay/Nearshore Tidelands Superfund sites in Washington State. The Rainier Commons building, currently a Toxic Substances Control Act (TSCA) cleanup site, was found to contain high concentrations of PCBs in caulk and paint that entered the stormwater system via catch basins on site. This system drains to the Lower Duwamish Waterway cleanup area. Elevated concentrations of PCBs in roadway caulk were found during source tracing by the City of Tacoma in response to the re-contamination of the Thea Foss Waterway in Commencement Bay.²⁰

Releases of PCBs into the environment from PCB-containing building materials have also been well studied in the San Francisco Bay region. The San Francisco Bay Regional Water Quality Control Board found that "of the sources to the Bay, stormwater runoff contributes the greatest mass of PCBs."²¹ A study of buildings within greater San Francisco Bay region found PCBs in 88% of the caulk samples tested; 40% of the samples contained >50 ppm PCBs, and 20% > 10,000 ppm PCBs.²² Data suggest a correlation between PCB levels observed in the water with construction activity. Based on these studies, the San Francisco Bay Regional Water Quality

¹⁷ 2015. PCB Chemical Action Plan. Washington State Department of Ecology. <https://fortress.wa.gov/ecy/publications/SummaryPages/1507002.html>

¹⁸ 2011. Control of Toxic Chemicals in Puget Sound Phase 3: Primary Sources of Selected Toxic Chemicals and Quantities Released in the Puget Sound Basin. Ecology Publication No. 11-03-024. <https://fortress.wa.gov/ecy/publications/documents/1103024.pdf>

¹⁹ 2011. Lower Duwamish Waterway Survey of Potential PCB-Containing Building Material Sources. Prepared for Ecology. <https://fortress.wa.gov/ecy/gsp/DocViewer.ashx?did=41052>

²⁰ 2015. Thea Foss and Wheeler-Osgood Waterways 2014 Source Control and Water Year 2014 Stormwater Monitoring Report, City of Tacoma. Section 2.1.3. <http://cms.cityoftacoma.org/enviro/SurfaceWater/SourceControl/WYRpt/Report.pdf>

²¹ 2013. San Francisco Bay Regional Water Quality Control Board. San Francisco Bay PCBs TMDL – Implementation at Cleanup Sites. http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaypcbs/SF%20Bay%20PCBs%20TMDL%20-%20Considerations%20for%20Cleanup%20Sites%20September%205%202013.pdf

²² *ibid*, p. 3.

Control Board stated that controlling demolition of buildings containing PCBs could significantly reduce the loading of PCBs in their stormwater.

EPA is purposefully limiting this new requirement to apply to sites that discharge to waters with known impairments for PCBs. Over 4,500 water bodies are currently listed in the PCB-polluted category, making this the sixth-highest water pollution cause nationwide.²³ This includes 81,610 miles of rivers and streams, 3,204,534 acres of lakes and ponds, and 400,094 square miles of bays and estuaries that are impaired for PCBs.²⁴ EPA does not currently have data on the number of construction projects subject to EPA's CGP that may involve demolition of a structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980 on sites that discharge to waters impaired for PCBs. Therefore, at this time, EPA does not have an estimate for the number of operators that will be affected by this new requirement. However, EPA added a new question on the NOI form asking about the prevalence of demolition of a structure with at least 10,000 square feet of floor space that was built or renovated before January 1, 1980. With the benefit of this new information, EPA can more comprehensively evaluate the occurrence under the CGP of demolition of structures which often contain PCBs in building materials and the need to modify the applicability of this requirement as necessary in the future.

There are a variety of controls that can be implemented to minimize the potential discharge of PCBs from demolition activities, and can also be effective in controlling the release of other hazardous substances like asbestos and lead-paint. The following examples provide guidance for operators in selecting the site-specific controls to meet this requirement in Part 3.2. These examples are not required or exhaustive. Operators have flexibility in selecting the specific controls they will implement to meet this requirement in Part 3.2, but must ensure that such controls minimize exposure of building materials to precipitation and stormwater, and ensure that such materials are properly disposed. Operators must also document the selected controls in the SWPPP.

- Separate work areas from non-work areas and select appropriate personal protective equipment and tools.
- Construct a containment area so that all dust or debris generated by the work remains within the protected area.
 - Apply plastic sheeting to the floor, ground, or other applicable surfaces to prevent contamination of the building interior or exterior from dust generated by the work.
 - Put all necessary tools and supplies on the protective sheeting in the work area before you begin work to avoid stepping off the protective sheeting before the work is complete.
 - Construct a decontamination area outside of the work area by placing heavy plastic sheeting on the ground. Use this area for removing personal protective equipment and for cleaning equipment used in the enclosure.
 - Every time you leave the plastic sheeting, remove disposable shoe covers, and wipe or vacuum shoes, especially, the soles, before stepping off the plastic sheeting. A large disposable tack pad on the floor can help to clean the soles of shoes.
 - Remove or vacuum off Tyvek suits when exiting the work area so the dust stays inside the work area.

²³ Summaries of Water Pollution Reporting Categories, ATTAINS parent cause category summaries, adapted from doc. no. EPA841-R-12-104, October 2012.

²⁴ National Causes of Impairment, Size of Assessed Waters with Listed Causes of Impairment, available at https://ofmpub.epa.gov/waters10/attains_nation_cy.control#causes

- For locations where a containment area cannot be constructed, consider the following techniques:
 - Cover the ground and plants with heavy plastic sheeting to catch debris. The covering should extend at least ten feet out from the building. Secure the covering to the exterior wall with a wood strip and staples, or tape.
 - Seal off any vents or air exchange systems into the building that are located within the work area.
 - Move or cover any play areas within 20 feet of the work area.
 - To prevent debris from falling beyond the ten-foot covering when working on the second story or above, extend the sheeting farther out from the base of the building and to each side of the area where materials are being disturbed.
 - To prevent the spread of debris when work is close to a sidewalk, street, or property boundary, or the building is more than three stories high, scaffolding sides should be covered in plastic.
 - Avoid working in high winds. Otherwise, take special precautions to keep the work area contained when the wind is strong enough to move dust and debris. For example, a wind screen can be constructed of plastic at the edge of the ground-cover plastic to keep dust and debris from migrating.
- For inside work, consider placing the containment area under negative air pressure and/or using high-efficiency particulate air (HEPA).
- Use tools that minimize dust and heat (<212°F). Detailed information on tools can be found at <https://www3.epa.gov/epawaste/hazard/tsd/pcbs/pubs/caulk/guide/guide-appendix.htm>.
 - When using electromechanical tools, use HEPA vacuum attachments to contain the dust generated.
 - Use wet sanders and misters to keep down the dust created during sanding, drilling, and cutting.
- Leave the work area clean at the end of every day and at the end of the project.
 - Daily activities include:
 - Pick up as you go. Put trash in heavy-duty plastic bags.
 - Vacuum the work area with a HEPA vacuum cleaner frequently during the day and at the end of the day.
 - Clean tools at the end of the day.
 - Dispose of or clean off personal protective equipment.
 - Properly dispose of wastewater produced during the job.
 - End of project activities include:
 - Make sure all trash and debris, including building components, are disposed of properly.
 - Vacuum any exposed surfaces, including walls and ceilings, with a HEPA vacuum cleaner.
 - Mist dusty sections of the plastic sheeting with water before taking them down to keep dust from becoming airborne again.
 - Remove plastic sheeting carefully, fold it with the dirty side in, tape it shut, and properly dispose of it.

- Visually inspect the site to ensure that no dust or debris is present and re-clean the area thoroughly if you find dust or debris.

The following are also recommended practices for minimizing PCB exposure to workers, building occupants, and community members during demolition activities:

- Use site security measures to prevent access of unauthorized persons to the work areas until after the final cleanup. Examples of security measures include:
 - Lock fence gates or doors to the work areas during off hours.
 - Place signs, barrier tape and/or cones to keep all non-workers out of the work area. Signs should be in the primary languages of the occupants, and should say "Do Not Enter - Authorized Personnel Only" and "No Eating, Drinking, or Smoking."
 - Establish a system to identify authorized persons and any limitations to their approved activities.
 - Provide a means for approving all visitors to the work area; ensure trained site personnel accompany visitors at all times and provide them with appropriate personal protective equipment.
- Close windows and doors within 20 feet of the work area to keep dust and debris from getting into the building.
- Change out of work clothing before going home, and launder non-disposable protective clothing separately from family laundry.

Part 4: Site Inspection Requirements

Part 4.1: Person(s) Responsible for Inspecting Site

Part 4.1 clarifies that it is the operator who will be responsible for ensuring that the person who conducts inspections, whether he/she is a member of the project staff or a third party, must be a "qualified person."

Part 4.1	Permit Requirements
	Part 4.1 clarifies that the person(s) inspecting the site may be a person on the project staff or a third party hired to conduct such inspections. Whoever will be charged with conducting the inspections must be a "qualified person," who is knowledgeable in the principles and practice of erosion and sediment controls, and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater control measures selected and installed to meet the requirements of the permit.

Part 4.2: Frequency of Inspections

Part 4.2 requires the operator to, at a minimum, conduct a site inspection in accordance with one of two schedules, unless they are subject to the Part 4.3 site inspection frequency for discharges to sensitive waters or qualify for a Part 4.4 reduction in the inspection frequency.

Part 4.2	Permit Requirements
	Part 4.2 requires the operator to conduct inspections of the site and establishes the required minimum inspection frequency. The operator has the option to either (1) conduct a site inspection once every seven (7) calendar days; or (2) conduct a site inspection once every 14 days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge. To determine if a storm event of 0.25 inches or greater has occurred on the site, the operator must either keep a properly maintained rain gauge on the site, or obtain the storm event information from a

weather station that is representative of the location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, the operator must record the total rainfall measured for that day in accordance with Part 4.7.1.d.

This provision retains the 2012 CGP's choice between the weekly inspection and bi-weekly inspection frequency. Operators must conduct their inspection within 24 hours once a storm event has produced 0.25 inches within a 24 hour period, even if the storm event is still continuing. Thus, if the operator has elected to inspect bi-weekly and there is a storm event at the site that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm (inspections are only required during the sites normal working hours). In EPA's judgment, it is important for inspections to be conducted within a day of the occurrence of a qualifying rainfall event so that the operator could catch any potential problems on the site and correct such problems before a prolonged discharge of pollutants occurs. Requiring inspections to be conducted within 24 hours of the occurrence of a qualifying storm event provides assurance that, during multiple days of discharge from a single storm event, problems with the control of pollutants will be identified sooner and corrected in accordance with the corrective action timeframes specified in Part 5 of the permit. EPA modified the requirement in option (2) to add "or the occurrence of runoff from snowmelt sufficient to cause a discharge" to when inspections must be conducted, in order to clarify that snowmelt runoff is also a stormwater discharge, and also triggers the inspection requirement.

Complying with the bi-weekly inspection frequency: EPA intends that sites electing to inspect once every 14 days and within 24 hours of a 0.25 inch storm or the occurrence of runoff from snowmelt sufficient to cause a discharge will conduct at a minimum one inspection every 14 days and additional inspections as is warranted depending on whether a 0.25 inch storm event or snowmelt runoff occurs during normal working hours. To comply with this requirement, operators should ensure that no more than 14 days pass after each inspection before the next inspection is conducted. This could be accomplished by choosing a regular day during the two-week period on which inspections will be conducted in the absence of precipitation events. However, where a rain event produces 0.25 inches or more during the two-week period or snowmelt runoff occurs, an inspection must be performed within 24 hours of the occurrence of the event. Following the event-related inspection (or final event related inspection in cases of multi-day events), the operator must conduct the next inspection within no more than 14 calendar days.

Multiple day storms: The permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

0.25 inch rain event threshold: EPA incorporates by reference the discussion in 2012 CGP fact sheet (Section IX.1.2) in which EPA presented data that supported the 0.25 inch threshold for inspections. EPA found that a 0.25 inch threshold would cover an estimated 47 percent of storms in New Hampshire, 10 percent of storms in Idaho, and 27 percent of storms in New Mexico. It is EPA's judgment that storms with rainfall totals greater than 0.25 inches have the potential to produce discharges of stormwater that could lead to discharges of pollutants to surface waters, particularly if stormwater controls are not functioning effectively. Further, storms greater than 0.25 inches may compromise stormwater controls on the site. Thus, inspection immediately after such events (or during such events in the case of multi-day storms) is important to meet the purposes of adopting a storm-based inspection schedule. See section IX.1.2 "Frequency of Inspections (Part 4.1.2)" on pages 94 through 96 of the 2012 CGP fact sheet, available at https://www.epa.gov/sites/production/files/2015-10/documents/cgp2012_finalfactsheet.pdf.

Part 4.3: Increase in Inspection Frequency for Sites Discharging to Sensitive Waters

Part 4.3 requires modified inspection frequencies for the portion of any sites discharging to a sediment or nutrient-impaired water or to a water identified by a state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes.

Part 4.3	Permit Requirements
	The operator must conduct inspections in accordance with the following inspection frequencies: Once every 7 calendar days and within 24 hours of a storm event of 0.25 inches or greater, or the occurrence of runoff from snowmelt sufficient to cause a discharge. To determine if a storm event of 0.25 inches or greater has occurred on your site, the operator must either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of its location. For any day of rainfall during normal business hours that measures 0.25 inches or greater, the operator must keep a record of rainfall occurrences in accordance with Part 4.7.1d.

As noted in the fact sheet section on Part 3.2, it is EPA's judgment that these inspection requirements will enhance the operator's ability to find and correct problems before a discharge of pollutants occurs. EPA expects that compliance with the water quality-based effluent limits in the permit, in combination with the general effluent limits in Part 2, will result in discharges that meet applicable water quality standards. EPA clarifies that the more frequent site inspections are required only for those portions of the site that are discharging to the sensitive water. For example, for a highway construction project spanning many miles over multiple watersheds, the increase in inspection frequency would only be required in areas of the site that discharge to or within one mile upstream of the sensitive water. EPA also notes that if the operator qualifies for any of the reduced inspection frequencies specified in Part 4.4, they may comply with those reduced frequencies despite the fact that they discharge to a sensitive water. This is because the reduced frequencies in Part 4.4 apply only to situations where the reduced inspection frequency is justified by circumstances that ensure protection of all waters, including sensitive waters.

Note that, similar to the requirements for conducting bi-weekly site inspections under Part 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm. The operator must conduct an inspection upon the occurrence of runoff from snowmelt sufficient to cause a discharge.

Part 4.4: Reductions in Inspection Frequency

Part 4.4 identifies three different situations in which a reduction in the frequency of inspections is permitted. Each of these represent situations of comparatively lower risk for discharges to surface waters.

Part 4.4.1: For Stabilized Areas

Part 4.4.1 provides the opportunity for operators to reduce their inspection frequencies in any areas of the site that have achieved temporary or final stabilization as required in Part 2.2.14.

Part 4.4.1	Permit Requirements
	a. The permit enables the operator to reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, then once per month in any area of the site where the stabilization steps in Part 2.2.14.a have been completed. If construction activity resumes in this portion of the site at a later date, the inspection

frequency immediately increases to the frequency specified in Part 4.2 or 4.3 if applicable. The operator must document the beginning and ending date of this period in its SWPPP.

- b. Exception. For "linear construction sites" (as defined in Appendix A) where disturbed portions have undergone final stabilization at the same time active construction continues on others, you may reduce the frequency of inspections to twice per month for the first month, no more than 14 calendar days apart, in any area of your site where the stabilization steps in 2.2.14a have been completed. After the first month, inspect once more within 24 hours of the occurrence of a storm event of 0.25 inches or greater. If there are no issues or evidence of stabilization problems, you may suspend further inspections. If "wash-out" of stabilization materials and/or sediment is observed, following re-stabilization, inspections must resume at the inspection frequency required in Part 4.4.1a. Inspections must continue until final stabilization is visually confirmed following a storm event of 0.25 inches or greater.

Areas of the site that have achieved temporary or final stabilization present a significantly lower risk of producing unacceptable discharges of pollutants in stormwater to surface waters. EPA further expects that, especially for larger projects, where construction activities may take place in different phases in separate locations of the site, reducing site inspection frequency where areas have been stabilized will encourage stabilization to take place closer to the time that active disturbances have ended. It is EPA's judgment that the reduction in inspection frequency will provide a benefit in reduced administrative burden to the operator. EPA modified this requirement from the 2012 CGP to require inspections to be conducted twice per month for the first month, with no more than 14 calendar days between the two inspections, after stabilization has been completed before reducing the inspection frequency to once per month. This change is intended to ensure that operators catch any potential problems with stabilization measures early on and correct such problems before failure of stabilization measures and a prolonged discharge of pollutants occurs. The requirement in (b) above is also a modification to the reductions in inspection frequency for linear construction sites. EPA acknowledges that long linear projects may feature portions of the site that are completed and stabilized months before the final portion of the project is stabilized. The exception provides flexibility for linear construction sites by allowing these operators to suspend further inspections on portions of their site that have met the final stabilization requirements following two inspections in the first month, no more than 14 calendar days apart, and no observed "wash-out" following one more inspection within 24 hours of a storm event of 0.25 inches or greater.

Part 4.4.2: For Arid, Semi-Arid, or Drought-Stricken Areas

Part 4.4.2 allows operators whose construction projects occur in areas considered arid or semi-arid to reduce the frequency of inspection to account for the comparatively lower amounts of rainfall.

Part 4.4.2	Permit Requirements
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The permit enables operators to reduce their inspection frequency to once per month and within 24 hours of the occurrence of a storm event of 0.25 inches or greater if the project is located in an arid, semi-arid, or drought-stricken area and construction is occurring during the seasonally dry period or a period in which drought is predicted to occur. The operator must document that they are using this schedule and the beginning and ending dates of this period in the SWPPP. To determine if a storm event of 0.25 inches or greater has occurred on the site, the operator must either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of the location. For
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any day of rainfall during normal business hours that measures 0.25 inches or greater, the operator must record the total rainfall measured for that day in accordance with Part 4.7.1.d.

This reduced inspection frequency still allows operators to identify potential problems that could result in a discharge of pollutants in the unlikely event that a storm event does occur. To determine when the seasonal dry periods occur in arid and semi-arid areas, one tool that is available for operators is the U.S. Department of Agriculture, Natural Resources Conservation Service's Climate Analysis for Wetlands tool:

<http://www.wcc.nrcs.usda.gov/climate/wetlands.html>.

Note that, similar to the requirements for conducting bi-weekly site inspections under Part 4.2.2, the permit clarifies that if the site experiences a storm event that continues for multiple days, and each day of the storm produces 0.25 inches or more of rain, the operator must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the end of the storm.

Part 4.4.3: For Frozen Conditions

Part 4.4.3 enables operators that experience frozen conditions on their site to reduce their inspection frequency to account for the fact that a discharge will not be likely during this period of time.

Part 4.4.3 Permit Requirements

The permit enables operators to reduce inspection frequencies under the following conditions:

- a. Where earth-disturbing activity is suspended: If the operator is suspending earth-disturbing activities due to frozen conditions, the operator may temporarily suspend inspections on the site until thawing conditions begin to occur if:
 - i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at the site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the operators must immediately resume the regular inspection frequency as described in Parts 4.2 or 4.3 as applicable;
 - ii. Land disturbances have been suspended; and
 - iii. All disturbed areas of the site have been stabilized in accordance with Part 2.2.14.a.
- b. Where earth-disturbing activities continue on portions of the site: If the operator is still conducting earth-disturbing activities during frozen conditions, the operator may reduce the inspection frequency to once per month if:
 - i. Runoff is unlikely due to continuous frozen conditions that are likely to continue at the site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the operator must immediately resume the regular inspection frequency as described in Parts 4.2 or 4.3 as applicable; and
 - ii. Except for areas in which the operator is actively conducting earth-disturbing activities, disturbed areas of the site have been stabilized in accordance with Part 2.2.14.a.

Part 4.4.3 will also requires that operators document the beginning and ending dates of this period in their SWPPP.

The permit retains the 2012 CGP's waiver approach for projects that suspend all construction work during frozen conditions. This permit also allows operators to reduce

inspection frequencies to once per month if the ground is frozen and they will still be conducting earth-disturbing activities. For both scenarios under which a reduction is possible, this permit includes the requirement that the disturbed areas be stabilized either vegetatively or non-vegetatively. This requirement also provides further assurance that in the case of an unexpected thaw or rain on snow event, the discharge of pollutants from all areas has been minimized.

Part 4.5: Areas That Must Be Inspected

Part 4.5 describes the areas on the site that must be inspected.

Part 4.5 (4.5.1 – 4.5.6)	Permit Requirements
	The permit specifies which areas of the site must be inspected during each site inspection, which include, at a minimum, the following: 4.5.1 All areas that have been cleared, graded, or excavated, and that have not yet completed stabilization consistent with Part 2.2.14.a; 4.5.2 All stormwater controls (including pollution prevention controls) installed at the site to comply with this permit; 4.5.3 Material, waste, borrow or equipment storage and maintenance areas that are covered by this permit; 4.5.4 All areas where stormwater typically flows within the site, including drainageways designed to divert, convey, and/or treat stormwater; 4.5.5 All points of discharge from the site; and 4.5.6 All locations where stabilization measures have implemented. Operators are not required to inspect areas of the site that, at the time of the inspection, are considered unsafe to inspection personnel.

The 2012 CGP included many of the same specific areas to be inspected in Part 4.1.5 of the 2012 CGP. In Part 4.5.2, EPA clarifies that all stormwater controls installed at the site required in Part 2 and Part 3 must be inspected, including the inspection for sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with Part 2.2.4.

Part 4.6: Requirements for Inspections

Part 4.6 includes specific requirements regarding the focus of the inspection.

Part 4.6 (4.6.1 – 4.6.7)	Permit Requirements
	The permit requires that inspections, at a minimum, consist of the following: 4.6.1 Check whether all stormwater controls (i.e., erosion and sediment controls and pollution prevention controls) are properly installed, appear to be operational, and are working as intended to minimize pollutant discharges. 4.6.2 Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site; 4.6.3 Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2 and/or 3; 4.6.4 Check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the discharge at points of discharge and, if applicable, the banks of any waters of the U.S. flowing within or immediately

	adjacent to the site;
4.6.5	Identify any incidents of noncompliance observed.
4.6.6	If a discharge is occurring during the inspection, the operators must to: - Identify all points at the site; and - Observe and document the visual quality of the discharge, and take note of the characteristics of the stormwater discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of stormwater pollutants.
4.6.7	Based on the results of the inspection, complete any necessary maintenance under Part 2.1.4 and corrective actions under Part 5.

EPA clarifies that the operator must complete any necessary maintenance discovered during an inspection.

Part 4.7: Inspection Report

Part 4.7.1: Requirement to Complete Inspection Report

Part 4.7.1 provides a consistent means of documenting the results of each inspection.

Part 4.7.1	Permit Requirements
	The operator must complete an inspection report within 24 hours of completing any site inspection. Each inspection report must include the following: - The inspection date; - Names and titles of personnel making the inspection; - A summary of the inspection findings, covering at a minimum the observations you made in accordance with Part 4. 6, including any necessary maintenance or corrective actions; - If the operator is inspecting the site at the frequency specified in Part 4.2.2, Part 4.3, or Part 4.4.2, and the operator conducted an inspection because of rainfall measuring 0.25 inches or greater, it must include the applicable rain gauge or weather station readings that triggered the inspection; and - If the operator has determined that it is unsafe to inspect a portion of the site, the operator must describe the reason it was found to be unsafe and specify the locations that this condition applied to.

Part 4.1.7 requires, similar to the concept of a log book, that an inspection report be completed for each inspection. It is EPA's judgment that requiring an inspection report to be kept will improve the organization of the inspection-related records, and make it easier for operators to keep track of their findings from inspection to inspection.

Part 4.7.2: Signature Requirements

Part 4.7.2 requires that inspection reports, whether in paper or electronic format, provide accountable documentation of compliance with the inspection requirements in this permit. Appendix I provides signature requirements for both paper and electronic reports.

Part 4.7.2	Permit Requirements
	Each inspection report must be signed in accordance with Appendix I, Part I.11 of the permit.

Part 4.7.3: Recordkeeping Requirements

Part 4.7.3 requires inspection reports be kept at the site and available to EPA inspectors.

Part 4.7.3	Permit Requirements
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The permit requires that the operators keep a copy of all inspection reports at the site or at an easily accessible location, so that they are available at the time of an on-site inspection or upon request by EPA.
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Part 4.7.4: Record Retention

The requirement in Part 4.7.4 to retain all reports a minimum of three years comes from the standard permit condition requirements at 40 CFR 122.41(j)(2).

Part 4.7.4	Permit Requirements
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The permit requires that the operators retain all inspection reports for at least three (3) years from the date that permit coverage expires or is terminated.

Part 4.8: Inspections by EPA

The requirements in Part 4.8 are to inform the operator of its obligations with respect to providing access to EPA (or its authorized representatives) in order to conduct site inspections of its own for the purposes of determining compliance with this permit.

Part 4.8 (4.8.1 – 4.8.4)	Permit Requirements
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Part 4.8 requires the operator to allow EPA or an authorized representative of EPA to conduct the following activities at reasonable times. To the extent the operator is utilizing shared controls that are not on-site to comply with this permit, the operator must make arrangements for EPA to have access at all reasonable times to those areas where the shared controls are located.
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| <p>4.8.1 Enter onto all areas of the site, including any construction support activity areas covered by this permit, any off-site areas where shared controls are utilized to comply with this permit, discharge locations, adjoining waterbodies, and locations where records are kept under the conditions of this permit;</p> <p>4.8.2 Access and copy any records that must be kept under the conditions of this permit;</p> <p>4.8.3 Inspect the construction site, including any construction support activity areas covered by the permit (see Part 1.2.1 c), any stormwater controls installed and maintained at the site, and any off-site shared controls utilized to comply with this permit; and</p> <p>4.8.4 Sample or monitor for the purpose of ensuring compliance.</p> |
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This same authority is included in Appendix I, Part 9 of the 2012 CGP as a standard permit condition based on 40 CFR 122.41(i). This authority is based on section 308 of the CWA. It is EPA's judgment that it is appropriate to place this same language in the inspection part of the permit so that it is more visible to the operator.

Part 5: Corrective Actions

Part 5.1: Conditions Triggering Corrective Action

Part 5.1 explains when an operator is expected to take corrective action.

Part 5.1 (5.1.1 – 5.1.4)	Permit Requirements
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Part 5.1 defines the conditions under which an operator must take corrective action at their site:

- 5.1.1** A stormwater control needs repair or replacement (beyond routine maintenance required under Part 2.1.4); or
- 5.1.2** A stormwater control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or
- 5.1.3** The operator's discharges are causing an exceedance of applicable water quality standards; or
- 5.1.4** A prohibited discharge has occurred (see Part 1.3).

The conditions that require corrective action are substantively similar to and consistent with those from Part 5.1 of the 2012 CGP. EPA added a triggering condition for corrective action if a stormwater control needs repair or replacement. This clarifies EPA's intent in the 2012 CGP that corrective action would be needed when control repairs are required. This condition for corrective action is distinguished from when controls require routine maintenance in Part 2.1.4 of the permit.

Part 5.2: Corrective Action Deadlines

Part 5.2 establishes deadlines for initiating and completing work to correct the conditions identified at the site in accordance with Part 5.1. Corrective action is distinguished from routine maintenance of stormwater controls and pollution prevention measures required in Parts 2.1.4 and 2.3.

Part 5.2	Permit Requirements
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Part 5.2 describes the deadlines the operator must meet when addressing any of the corrective action triggering conditions described in Part 5.1
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EPA notes that if the condition identified in this Part constitutes a permit violation, correcting it does not eliminate the original violation. However, enforcement authorities will consider the promptness and effectiveness of any corrective action taken in determining an appropriate response. Additionally, failing to take corrective action in accordance with this Part will be an additional permit violation.

Part 5.2.1 requires the operator to immediately take reasonable steps to address any conditions at the site triggering corrective action to minimize pollutant discharges from the site.

Part 5.2.1	Permit Requirements
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Part 5.2.1 requires operators to immediately take all reasonable steps to address the condition identified in Part 5.1, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events.
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EPA notes that in the context of Part 5.2.1 the term "immediately" requires operators to, on the same day a condition requiring corrective action is found, take steps to minimize or prevent the discharge of pollutants unless a new or replacement control or significant repair is required.

Part 5.2.2 establishes a specific timeframe for completing corrective actions that do not require a new or replacement control or significant repair.

Part 5.2.2	Permit Requirements
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Part 5.2.2 requires operators to complete the corrective action by the close of the next business day when the problem does not require a new or replacement control or significant repair.

Examples of corrective actions that do not require significant repair or replacement include sweeping up tracked-out sediment, cleaning up spilled materials, and minor repairs such as fixing a hole in a silt fence. EPA notes that if the problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

Part 5.2.3 establishes a specific timeframe for completing corrective actions that require a new or replacement control or significant repair.

Part 5.2.3	Permit Requirements
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Part 5.2.3 requires the operator to install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery when the problem requires a new or replacement control or significant repair. If it is infeasible to complete the installation or repair within 7 calendar days, the operator must document in their records why it is infeasible to complete the installation or repair within the 7-day timeframe and document their schedule for installing the stormwater control(s) and making it operational as soon as feasible after the 7-day timeframe. Where these actions result in changes to any of the stormwater controls or procedures documented in their SWPPP, the operator must modify their SWPPP accordingly within 7 calendar days of completing this work.

Examples of corrective actions that require significant repair or replacement include extensive removal and replacement of an existing control or controls, or repairing a sophisticated treatment control, such as a chemical treatment system.

Part 5.2.3 will also ensure that the SWPPP adequately reflects the stormwater controls being implemented on the site. Where a new control is installed and made operational, or a modification is made to an existing control, the SWPPP must be updated to reflect these site changes. Note that this is true for all such modifications, including those made to implement corrective actions.

Part 5.3: Corrective Action Required by EPA

Part 5.3 clarifies that, in addition to corrective actions that may result from the operator's own inspections, EPA may also require corrective actions to address permit violations found during the agency's inspections.

Part 5.3	Permit Requirements
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The operator must comply with any corrective actions required by EPA as a result of permit violations found during an inspection carried out under Part 4.8.

Part 5.4: Corrective Action Report

Part 5.4 establishes requirements for proper documentation of all corrective actions that must be taken under this part of the permit.

Part 5.4	Permit Requirements
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Part 5.4 requires that operators complete a corrective action report for each corrective action taken in accordance with this part of the permit.
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This requirement is similar to the 2012 CGP's Part 5.4 corrective action report requirement to document problems found on the site and the corresponding corrective actions taken and applicable implementation dates.

Part 5.4.1 requires the operator to immediately record some basic information with respect to the initial finding of the triggering condition.

Part 5.4.1	Permit Requirements
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Within 24 hours of identifying the corrective action condition, the operator must document the specific condition and the date and time it was identified.
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Part 5.4.2 requires the operator to document the completion of corrective actions that were identified in Part 5.4.2.

Part 5.4.2	Permit Requirements
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Within 24 hours of completing the corrective action (in accordance with the deadlines in Part 5.2), the operator must document the actions taken to address the condition, including whether any SWPPP modifications are required.
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The requirement in Part 5.4.2 is different from the 2012 CGP Part 5.4.2, which required a report within 7 calendar days of discovering a condition that required a corrective action. In the 2017 CGP, the operator must document the completion of the corrective action within 24 hours, whether the correction action was completed in 3 days, 7 days, or later (after the operator documents that it is infeasible to complete the repair within 7 days and sets a schedule for completing the repair in accordance with Part 5.2.3).

Part 5.4.3 establishes requirements for accountable documentation of compliance with the corrective action requirements in this permit. Appendix I provides signature requirements for reports.

Part 5.4.3	Permit Requirements
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Each corrective action report must be signed in accordance with Appendix I, Part I.11 of this permit.

The requirement in 5.4.4 is intended to ensure that EPA officials have immediate access to such records during an on-site inspection.

Part 5.4.4	Permit Requirements
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The operator must keep a copy of all corrective action reports at the site or at an easily accessible location, so that it can be made available at the time of an on-site inspection or upon request by EPA.

The requirement in Part 5.4.5 to retain all reports a minimum of 3 years comes from the standard permit condition requirements at 40 CFR 122.41 (j) (2).

Part 5.4.5	Permit Requirements
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The operator must keep all corrective action reports completed for this Part for at least three (3) years from the date that permit coverage expires or is terminated.
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Part 6: Staff Training Requirements

The staff training requirements in Part 6 are to ensure that each member of the stormwater team understands the requirements of the permit and his or her particular responsibilities relating to complying with those requirements.

Part 6	Permit Requirements
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Part 6 requires the operator, or group of multiple operators, to assemble a "stormwater team" to carry out compliance activities associated with the requirements in the permit. The requirements to conduct training prior to commencing construction activities will not apply to emergency-related construction activities that are eligible for permit coverage under Part 1.4; however, for such activities, training must be conducted prior to NOI submission.

- 6.1** Prior to the commencement of construction activities, the operator must ensure that the following members of the stormwater team receive training to ensure that they understand the permit requirements and their specific responsibilities with respect to those requirements:
- a. Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention controls);
 - b. Personnel responsible for the application and storage of treatment chemicals (if applicable);
 - c. Personnel who are responsible for conducting inspections as required in Part 4.1; and
 - d. Personnel who are responsible for taking corrective actions as required in Part 5.
- 6.2** Part 6.2 specifies that the operator is ultimately responsible for ensuring that all activities on the site comply with the requirements of the permit. The operator is not required to provide or document formal training for subcontractors or other outside service providers, but must ensure that such personnel understand any requirements of the permit that may be affected by the work they are subcontracted to perform.
- 6.3** Part 6.3 specifies that the content and extent of training must be tailored to match the stormwater team member's duties and responsibilities related to the permit's requirements. At a minimum, personnel must be trained to understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):
- a. The permit deadlines associated with installation, maintenance, and removal of stormwater controls and with stabilization;
 - b. The location of all stormwater controls on the site required by this permit and how they are to be maintained;
 - c. The proper procedures to follow with respect to the permit's pollution prevention requirements; and
 - d. When and how to conduct inspections, record applicable findings, and take corrective actions.
- 6.4** Each member of the stormwater team must have easy access to an electronic or paper copy of applicable portions of this permit, the most updated copy of the operator's SWPPP, and other relevant documents or information that must be kept with the SWPPP.

The training requirements in Part 6 are similar to the staff training requirements in Part 6 of the 2012 CGP.

Part 6 also specifies the minimum understanding that applicable members of the stormwater team should have with respect to the pertinent aspects of permit compliance. All of

the above listed areas that must be understood by stormwater team members relate to specific permit provisions in the CGP.

If the person requiring training is a new employee who starts after commencement of construction activities, the operator must ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit. New training may not be necessary for some employees if the operator is able to ensure that the employee, due to prior training, already understands the applicable topic area.

EPA also notes that for emergency-related projects, the requirement to train personnel prior to commencement of earth-disturbing activities does not apply. Because immediate authorization is available for these projects, given the urgency of the timing associated with such projects, it is EPA's judgment that it is appropriate to provide greater flexibility in the initial weeks of construction. However, the permit requires that upon submittal of the NOI, personnel be trained in accordance with this section.

Part 7: Stormwater Pollution Prevention Plan (SWPPP)

Part 7 describes the requirements for developing and maintaining a SWPPP.

Part 7.1: General Requirements

Part 7.1 establishes the overall requirement that operators develop SWPPPs prior to submitting their NOIs. The SWPPP must be in place prior to discharging so that the appropriate erosion and sediment controls are selected and to ensure that the eligibility and other requirements under the permit will be met.

Part 7.1	Permit Requirements
	Part 7.1 requires all operators associated with a construction site covered under this permit to develop a SWPPP. The operator must develop the SWPPP prior to submitting the NOI. The SWPPP must be kept up-to-date throughout coverage under the permit. If the SWPPP was prepared under a previous version of the permit (i.e., the 2012 CGP), the operator must review and update the SWPPP to ensure that this permit's requirements are addressed prior to submitting the NOI.

The SWPPP is intended to serve as a road map for how the construction operator will comply with the effluent limits and other conditions of this permit. The language in footnote 52 clarifies that the SWPPP does not establish the effluent limits that apply to the construction site's discharges; these limits are established in the permit. EPA emphasizes that while the requirement to develop a SWPPP, to keep it updated, and to include in it all of the required minimum contents consistent with Part 7.2 are enforceable permit requirements, the site-specific details of these SWPPPs do not establish separately enforceable limits of the permit. The fact that the SWPPP is an external tool and not considered to include effluent limits enables the operator to be able to modify and retool its approach during the course of the permit term in order to continually improve how it complies with the permit.

The new language in footnote 52³ of the permit notes that one operator may develop a group SWPPP provides that where there are several multiple operators at associated with the same site, they may develop a group SWPPP instead of multiple individual SWPPPs. For instance, if both the owner and the general contractor of the construction site meet the definition of an operator and are required to obtain NPDES permit coverage, either party could develop a group SWPPP that applies to both parties, as long as the SWPPP addresses both parties' permit-related functions. the owner may be the party responsible for SWPPP development, and the general contractor (or any other operator at the site) can choose to use this same SWPPP, as

long as the SWPPP addresses the general contractor's (or some other operator's) scope of construction work and obligations under this permit. Another example is where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPPs, and divide amongst themselves various permit-related functions provided that each SWPPP, or a group SWPPP, documents which operator will perform each permit-related function, including those related to the installation and maintenance of the shared control. Regardless of whether there is a group SWPPP or ~~several multiple~~ individual SWPPPs, all operators ~~would be jointly and severally liable~~ are legally responsible for compliance with the permit, notwithstanding how the SWPPP(s) may divide each operator's individual responsibilities. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit.

~~Where there are multiple operators associated with the same site through a common plan of development or sale, operators may assign to themselves various permit-related functions under the SWPPP provided that each SWPPP, or a group SWPPP, documents which operator will perform each function under the SWPPP. However, dividing the functions to be performed under the SWPPP does not relieve an individual operator from liability for complying with the permit should another operator fail to implement any measures that are necessary for the individual operator to comply with the permit, for example, the installation and maintenance of any shared controls, such as a sediment basin. In addition, where responsibilities are shared, all operators must ensure, either directly or through coordination with other operators, that their activities do not cause a violation and/or render compromise any other operators' controls and/or any shared controls, ineffective. All operators who rely on a shared control to comply with the permit are jointly and severally liable for violations of the permit resulting from the failure to properly install, operate and/or maintain the shared control.~~

~~The new language in footnote 53 clarifies in the permit that all operators associated with the same site through a common plan of development or sale are responsible for the stormwater from their individual parcel until the stormwater is discharged into waters of the U.S. or an MS4. This responsibility includes shared controls, such as a sediment basin, within the common development site used to treat stormwater from the individual parcel. For example, if multiple operators on the same common development site develop a group SWPPP or multiple individual SWPPPs that assign permit related functions to the various operators, an individual operator is not relieved of liability for permit compliance should another operator fail to perform any function assigned to it under the SWPPP and thus render the individual operator unable to comply with the terms of the permit. In other words, a second operator's failure to perform responsibility for a given function under the SWPPP (e.g., maintaining a sediment basin) does not render the first operator immune from enforcement for such failure, unless the second operator's failure does not impact the control of pollutants from the first operator's stormwater or non-stormwater flow (e.g., the first operator does not send stormwater or non-stormwater flow to the sediment basin before discharge from the overall common development site). Similarly, if any individual operator develops a separate SWPPP, that operator remains responsible for compliance with all requirements of the permit that apply to discharges of stormwater and/or non-stormwater from its portion of the site through the common development site and to the point of discharge to waters of the U.S. or an MS4 from the common development site, including requirements that apply to any shared controls relied upon by the operator to control pollutants in stormwater and non-stormwater runoff from its portion of the construction site. Additionally, if an individual operator develops a separate SWPPP, that individual operator is still responsible for compliance with the entire permit even if it relies upon shared controls.~~

~~EPA fully reserves its right to pursue liability against any operator as outlined above. When pursuing enforcement against an operator or several operators associated with the same site, EPA will consider the totality of the facts, including but not limited to the actions of each operator, the capability of the operator to remedy the violations, whether there is a written division of permit related functions in a group SWPPP or individual related SWPPPs, and whether the operator has the ability to obtain access, with assistance from EPA if needed, to any portion of the project at issue.~~

Part 7.2: SWPPP Contents

Part 7.2 includes the minimum requirements that must be included in the SWPPP, as follows.

Part 7.2.1: All Site Operators

Part 7.2.1 provides information about other operators engaged in activities covered under the permit.

Part 7.2.1	Permit Requirements
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Part 7.2.1 requires that the SWPPP contain a list of all other operators who will be engaged in construction activities at the site, and the areas of the site over which each operator has control.

Part 7.2.4 of the 2012 CGP required the SWPPP to include a list of all other operators who will be engaged in construction activities at the site. Part 7.2.1 restates this requirement to clarify in the SWPPP which operators the SWPPP covers, and the areas of the site over which each operator has control. For construction sites with only one operator, this provision does not apply.

Part 7.2.2: Stormwater Team

The requirement in Part 7.2.2 to provide information about the Stormwater Team in the SWPPP provides assurance that specific staff members are identified as responsible for overseeing the development of the SWPPP and are responsible for ensuring compliance with the permit requirements. Identification of staff members on the stormwater team in the SWPPP provides notice and clarification to facility staff and management (e.g., those responsible for signing and certifying the plan) of the responsibilities of certain key staff for following through on compliance with the permit's conditions and limits.

Part 7.2.2	Permit Requirements
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Part 7.2.2 requires the operator to identify the personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities, including which members are responsible for conducting inspections.

The requirement to assemble a stormwater team to oversee the development of the SWPPP and to ensure permit compliance is similar to Part 7.2.1 of the 2012 CGP, which required each operator to assemble a "stormwater team which is responsible for overseeing the development of the SWPPP... and for compliance." This requirement is also a logical extension of the need for the operator to designate personnel (whether or not they are members of the operator's staff or a subcontractor's) that are assigned the responsibility of carrying out the permit's requirements related to preparing the SWPPP, installing and maintaining stormwater control measures, conducting inspections, taking samples (if required), and implementing corrective actions. EPA has also, in past CGPs, required that operators name a "SWPPP contact" in the NOI and the SWPPP itself.

Part 7.2.3: Nature of Construction Activities

The provision in Part 7.2.3 requiring a description of the nature of the construction activities taking place on the construction site provides general information about the construction project, which can be readily understood by an EPA inspector or other third party who may be unfamiliar with the purpose and general layout of the projects.

Part 7.2.3 Permit Requirements

Part 7.2.3 requires that the SWPPP describe the nature of the construction activities, including:

- a. A description of the nature of your construction activities, including the age or dates of past renovations for structures that are undergoing demolition;
- b. The size of the property (in acres or length in miles if a linear construction site);
- c. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);
- d. A description of any on-site and off-site construction support activity areas covered by this permit (see Part 1.2.1.c);
- e. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;
- f. A description and projected schedule for the following:
 - i. Commencement of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (*i.e., excavating, cutting and filling*), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
 - ii. Temporary or permanent cessation of construction activities in each portion of the site;
 - iii. Temporary or final stabilization of exposed areas for each portion of the site; and
 - iv. Removal of temporary stormwater controls and construction equipment or vehicles, and the cessation of construction-related pollutant-generating activities.
- g. A list and description of all pollutant-generating activities (e.g., paving operations; concrete, paint, and stucco washout and waste disposal; solid waste storage and disposal; and dewatering operations) on the site. For each pollutant-generating activity, include an inventory of pollutants or pollutant constituents (e.g., *sediment, fertilizers, pesticides, paints, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels*) associated with that activity, which could be discharged in stormwater from your construction site. You must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed or removed during construction;
- h. Business days and hours for the project;
- i. If you are conducting construction activities in response to a public emergency (see Part 1.4), a description of the cause of the public emergency (e.g., *mud slides, earthquake, extreme flooding conditions, widespread disruption in essential public services*), information substantiating its occurrence (e.g., *state disaster declaration or*

similar state or local declaration), and a description of the construction necessary to reestablish affected public services.

To improve clarity, Part 7.2.3 combines the requirements from Parts 7.2.2, 7.2.3, and 7.2.5 from the 2012 CGP. Operators must describe the "age and/or dates of past renovation for structures that are undergoing demolition" to document any relevant information related to the new provision in Part 2.3 on implementing pollution prevention controls to minimize the exposure of polychlorinated biphenyl-(PCB) containing building materials for demolition of any structure built or renovated before January 1, 1980.

Identification of the size of the property, total area expected to be disturbed by construction activities, description of construction support activities, and the area expected to be disturbed provides the operator, among other things, with information about properly designing and installing stormwater control measures to minimize the discharge of pollutants, as well as information about the placement and type of stabilization practices that should be implemented to minimize the discharge of pollutants in stormwater.

This Part also requires, from Part 7.2.5 of the 2012 CGP, the schedule for activities such as commencement of construction, temporary or permanent cessation of construction, temporary or final stabilization, and removal of controls. Operators are encouraged to consider developing a site phasing plan as part of the schedule for activities. The purpose of requiring documentation of the sequencing of construction activities is to assist operators with planning their construction activity sequencing in conjunction with the control measures they intent to use to meet the effluent limitations in this permit. Proper construction site planning limits the amount of land disturbed at one time and limits the exposure of unprotected soils through rapid stabilization, which in turn reduces the amount of sediment that gets discharged from the construction site. This requirement provides operators a better understanding of the site runoff characteristics throughout all phases of construction activity, which will help them to plan for the types of stormwater control measures necessary to meet effluent limitations. It is EPA's judgment that documenting this schedule of activities will help operators to minimize earth disturbances to the extent necessary for the construction activity, which will also minimize pollutants discharged in stormwater. If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the operator to meeting these dates. When departures from initial projections are necessary, this should be documented in the SWPPP itself, or in associated records, as appropriate.

EPA also clarifies that in the description of each pollutant-generating activity, operators must list any known hazardous or toxic substances, such as PCBs and asbestos, which will be disturbed or removed during construction. This clarifies what EPA expects would be listed under the similar provision in Part 7.2.7 of the 2012 CGP. Operators must also now document the business days and hours for the project so that EPA, or any authorized representative of EPA, can be informed of normal operating hours in the instance of an inspection in accordance with Part 4.8 of the permit.

Part 7.2.4: Site Map

Part 7.2.4 requires that the SWPPP contain a legible site map, or series of maps. In the permit, EPA kept a similar format from the 2012 CGP that divided the Site Map requirements into sub-categories to provide greater clarity for the various site map requirements. The requirements in Part 7.2.4.a and 7.2.4.b provide a visual depiction of where construction activities are occurring in relation to the boundaries of the property.

Part 7.2.4.a - b	Permit Requirements
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- a. *Boundaries of the property.* The map(s) in the SWPPP must show the overall boundary of the property.
- b. *Locations where construction activities will occur.* The map(s) in the SWPPP must show the locations where construction activities will occur, including:
 - i. Locations where earth-disturbing activities will occur (note any phasing), including any demolition activities;
 - ii. Approximate slopes before and after major grading activities (note any steep slopes (as defined in Appendix A));
 - iii. Locations where sediment, soil, or other construction materials will be stockpiled;
 - iv. Any waters of the U.S. crossings;
 - v. Designated points where vehicles will exit onto paved roads;
 - vi. Locations of structures and other impervious surfaces upon completion of construction; and
 - vii. Locations of on-site and off-site construction support activity areas covered by the permit (see Part 1.2.1.c).

With the exception of the requirement to include the location of any demolition activities, all of these requirements correspond to Part 7.2.6 of the 2012 CGP. EPA includes the areas of demolition activities on the site map to clarify what EPA expected to be included on the site map under the 2012 CGP.

The requirement in Part 7.2.4.c compels operators to develop an understanding of the location of any waters flowing through or near the property where the construction will take place.

Part 7.2.4.c	Permit Requirements
c.	Locations of all waters of the U.S. within and one mile downstream of the site's discharge point. Also identify if any are listed as impaired, or are identified as a Tier 2, Tier 2.5, or Tier 3 water.

Requiring a visual showing these waters will provide operators with information necessary to comply with the requirements for impaired waters (Parts 3.1), and Tier 2, 2.5, and 3-protected waters (Part 3.2). Identifying the location of these waters on the site map will also help operators comply with the Erosion and Sediment Control requirements (Part 2.2), particularly those related to buffers (Part 2.2.1), and Pollution Prevention Standards (Part 2.3).

Part 7.2.4.d requires documentation on the site map of areas of threatened or endangered species critical habitat. This requirement is consistent with Part 7.2.6.4 from the 2012 CGP.

Part 7.2.4.d	Permit Requirements
d.	Areas of federally listed critical habitat within the site and/or at discharge locations.

The requirement in Part 7.2.4.e to map pre-construction cover on the site will assist operators in understanding how stormwater moves onto, through, and from the property prior to construction, and how any changes in this cover due to construction activities may affect the flow of stormwater.

Part 7.2.4.e	Permit Requirements
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| e. Type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures). |
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The requirement in 7.2.4.f to map the flow of stormwater on the site will provide valuable information to assist with planning, designing, and installing the appropriate stormwater control measures necessary to meet the permit's requirements regarding erosion and sediment controls, pollution prevention, and stabilization. Specifically it will also assist the operator with complying with the requirements in Part 2.2.2 to "Direct stormwater to vegetated areas."

Part 7.2.4.f	Permit Requirements
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| f. <i>Drainage patterns of stormwater and authorized non-stormwater before and after major grading activities.</i> |
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The requirements in Part 7.2.4.g informs the operator and, for EPA's purposes, documents where stormwater discharges will occur.

Part 7.2.4.g	Permit Requirements
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| g. <i>Stormwater and authorized non-stormwater discharge locations.</i> The permit requires the site map to show information pertaining to discharge locations including: |
| i. Locations where stormwater and/or authorized non-stormwater will be discharged to storm drain inlets; and |
| ii. Locations where stormwater and/or authorized non-stormwater will be discharged directly to waters of the U.S. |

There are multiple uses for the information required in Part 7.2.4.g, among which include: (1) learning where sewer inlet protections will need to be installed prior to commencing construction disturbances; and (2) helping to plan stormwater controls that will reduce the erosive force of the discharge. The permit notes that the requirement to show storm drain inlets in the immediate vicinity of the site only applies to those inlets that are easily identifiable from the site or from a publicly accessible area immediately adjacent to the site.

The requirement in Part 7.2.4.h to identify the locations of all pollutant-generating activities on the site map will provide operators with an understanding of how the location of their various pollutant-generating activities will correspond to the areas of disturbance at the site, the potential impacts of where these activities are located on the discharge pollutants, and the ideal locations for stormwater control measures to reduce or eliminate such discharges. This information will be used to comply with the pollution prevention requirements in Part 2.3.

Part 7.2.4.h	Permit Requirements
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| h. <i>Locations of all potential pollutant-generating activities identified in Part 7.2.3.g.</i> The permit requires identification in the site map of all potential pollutant-generating activities identified in Part 7.2.3.g. |
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The requirement in Part 7.2.4.i to show on the site map the location of stormwater control measures is intended to provide a spatial correlation between pollutant sources on the site, the flow of stormwater through and from the site, and the location of waters of the U.S.

Part 7.2.4.i	Permit Requirements
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| i. <i>Locations of stormwater controls, including natural buffer areas and any shared controls utilized to comply with this permit.</i> The permit requires identification on the site map of the location of stormwater control measures. |
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It is EPA's judgment that by requiring such information on the site map, the operator will be better able to locate stormwater control measures strategically so as to comply with the permit's requirements for erosion and sediment and pollution prevention in Parts 2.2 and 2.3. The requirement to show on the site map where areas of exposed soil will be stabilized, or have already been stabilized, provides operators with a visual aid that will help them to comply with the temporary and final stabilization requirements in Part 2.2.14. The requirement document natural buffer areas is included to help operators implement Part 2.2.1 to "Provide and maintain natural buffers."

The requirement in Part 7.2.4.j to show where chemicals will be applied on the site, and where they will be stored, is included to help operators implement Part 2.2.13 (treatment chemicals) and Part 2.3.3 (storage, handling and disposal of building products, materials, and waste). This requirement encourages the operator to think strategically about where the chemicals are applied and stored to minimize the risk of accidental release.

Part 7.2.4.j	Permit Requirements
	j. Locations where polymers, flocculants, or other treatment chemicals will be used and stored. The permit requires identification on the site map of the locations where polymers, flocculants, or other treatment chemicals will be used and stored.

Part 7.2.5: Non-Stormwater Discharges

Part 7.2.5 requires operators to create a comprehensive list of all non-stormwater discharges expected to occur from the site. Documentation in the SWPPP of all non-stormwater discharges from the site provides operators with information that will help them to minimize non-stormwater associated pollutant discharges, and to ensure that only authorized non-stormwater discharges occur.

Part 7.2.5	Permit Requirements
	Part 7.2.5 requires the SWPPP to identify all sources of allowable non-stormwater discharges listed in Part 1.2.2.

Part 7.2.6: Description of Stormwater Controls

Part 7.2.6 requires operators to include in the SWPPP a description of stormwater controls that will be implemented. Although this Part requires the SWPPP to include details on stormwater controls that will be implemented, departing from the individual design details on the site is not considered a permit violation.

Part 7.2.6.a	Permit Requirements
	a. For each of the Part 2.2 erosion and sediment control effluent limits, Part 2.3 pollution prevention effluent limits, and Part 2.4 construction dewatering effluent limits, the SWPPP must include the following: i. A description of the specific control(s) to be implemented to meet the effluent limit; ii. Any applicable stormwater control design specifications (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon); iii. Routine stormwater control maintenance specifications; and iv. The projected schedule for stormwater control installation/implementation.

The requirements in Part 7.2.6.a have been reorganized to follow the organization of the requirements in Part 2. The permit notes that design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.

Part 7.2.6.b requires operators to also include the following additional information in the SWPPP, as applicable.

i. Natural buffers and/or equivalent sediment controls (see Part 2.2.1 and Appendix G).

Part 7.2.6.b.i requires operators to document their compliance with respect to the buffer requirements in Part 2.2.1 and Appendix G of the permit.

Part 7.2.6.b.i	Permit Requirements
	The operator must include the following in the SWPPP: (a) The compliance alternative to be implemented; (b) If complying with alternative 2, the width of natural buffer retained; (c) If complying with alternative 2 or 3, the erosion and sediment control(s) the operator will use to achieve an equivalent sediment reduction, and any information the operator relied upon to demonstrate the equivalency; (d) If complying with alternative 3, a description of why it is infeasible for the operator to provide and maintain an undisturbed natural buffer of any size; (e) For "linear construction sites" where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a description of any buffer width retained and/or supplemental erosion and sediment controls installed; and (f) A description of any disturbances that are exempt under Part 2.2.1 that occur within 50 feet of a water of the U.S.

Such documentation will provide inspectors with verification that the operator has complied with the permit's buffer and/or equivalent sediment controls compliance alternatives.

ii. Perimeter controls for a "linear construction site" (see Part 2.2.3).

Part 7.2.6.b.ii requires operators to document their compliance the linear construction site exception for perimeter controls.

Part 7.2.6.b.ii	Permit Requirements
	For areas at linear construction sites where perimeter controls are not feasible, Part 7.2.6.b.ii requires the operator to include documentation to support this determination and a description of the other practices that will be implemented to minimize discharges of pollutants in stormwater associated with construction activities. The permit also notes that routine maintenance specifications for perimeter controls documented in the SWPPP must include the Part 2.2.3.a requirement that sediment be removed before it has accumulated to one-half of the above-ground height of any perimeter control.

This requirement corresponds to Part 7.2.10.1.d from the 2012 CGP (stormwater control measures to be used during construction activity) and also documents in the SWPPP the maintenance requirement from Part 2.1.2.2.b from the 2012 CGP for removing sediment before it has accumulated to one-half of the above-ground height of any perimeter control.

iii. Sediment track-out controls (See Parts 2.2.4.b and 2.2.4.c).

The requirement in Part 7.2.6.b.iii ensures proper documentation regarding the controls that will be implemented to remove sediment prior to vehicle exit and demonstrate the operator's ability to comply with the Part 2.2.4.b and 2.2.4.c requirements.

Part 7.2.6.b.iii	Permit Requirements
The operator must document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit.	

This requirement corresponds to Part 7.2.10.1.d from the 2012 CGP (stormwater control measures to be used during construction activity).

iv. Sediment basins (See Part 2.2.12).

The requirement in Part 7.2.6.b.iv ensures documentation when it is infeasible to utilize outlet structures required in Part 2.2.12 for withdrawing water from sediment basins.

Part 7.2.6.b.iv	Permit Requirements
In circumstances where it is infeasible to utilize outlet structures that withdraw water from the surface, the operator must include documentation in the SWPPP to support this determination, including the specific conditions or time periods when this exception will apply.	

This requirement corresponds to Part 2.1.3.2 from the 2012 CGP (sediment basin design requirements), and provides SWPPP documentation for when this requirement is infeasible.

v. Treatment chemicals (see Part 2.2.13).

The requirements in Part 7.2.6.b.v ensure proper documentation regarding the use of chemicals at permitted sites, and a demonstration of the operator's ability to comply with the Part 2.2.13 requirements.

Part 7.2.6.b.v	Permit Requirements
The operator must include the following in the SWPPP:	
(a) A listing of the soil types that are expected to be exposed during construction in areas of the project that will drain to chemical treatment systems. Also include a listing of soil types expected to be found in fill material to be used in these same areas, to the extent the operator has this information prior to construction; (b) A listing of all treatment chemicals to be used at the site and why the selection of these chemicals is suited to the soil characteristics of the operator's site; (c) If the EPA Regional Office authorized the operator to use cationic treatment chemicals for sediment control, include the specific controls and implementation procedures designed to ensure that the operator's use of cationic treatment chemicals will not lead to an exceedance of water quality standards; (d) The dosage of all treatment chemicals to be used at the site or the methodology to be used to determine dosage; (e) Information from any applicable Safety Data Sheet (SDS); (f) Schematic drawings of any chemically-enhanced stormwater controls or chemical treatment systems to be used for application of the treatment chemicals; (g) A description of how chemicals will be stored consistent with Part 2.2.13.c;	

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|-----|---|
| (h) | References to applicable state or local requirements affecting the use of treatment chemicals, and copies of applicable manufacturer's specifications regarding the use of your specific treatment chemicals and/or chemical treatment systems; and |
| (i) | A description of the training that personnel who handle and apply chemicals have received prior to permit coverage, or will receive prior to use of the treatment chemicals at the operator's site |

For Part 7.2.6.b.v above, information on soils may be obtained at <http://websoilsurvey.nrcs.usda.gov/app/>. This requirement corresponds to Part 7.2.10.2 from the 2012 CGP (stabilization practices).

vi. Stabilization measures (See Part 2.2.14).

The requirements in Part 7.2.6.b.vi provide greater specificity regarding the use of vegetative and/or non-vegetated controls, and the use of such controls for both temporary and final stabilization.

Part 7.2.6.b.vi	Permit Requirements
The operator must include the following in the SWPPP:	
(a)	The specific vegetative and/or non-vegetative practices that will be used;
(b)	The stabilization deadline that will be met in accordance with Part 2.2.14.a.i-ii;
(c)	If complying with the deadlines for sites in arid, semi-arid, or drought-stricken areas, the beginning and ending dates of the seasonally dry period and the schedule the operator will follow for initiating and completing vegetative stabilization; and
(d)	If complying with deadlines for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization.

EPA includes such specificity so that documentation in the SWPPP corresponds to the permit requirements for stabilization in Part 2.2.14 of the CGP. The requirements in Part 7.2.6.b.vi will provide the operator the opportunity to support its compliance with the stabilization requirements in Part 2.2.14 of the CGP in the SWPPP. Such documentation will also provide inspectors with verification that the operator has complied with the permit's stabilization requirements. This requirement corresponds to Part 7.2.10.3 from the 2012 CGP (stabilization practices). EPA has added a requirement to document the stabilization deadline that will be met in accordance with Part 2.2.14.a.i-ii so that operators can support their compliance with the stabilization deadline requirements and inspectors can verify the operator is complying with the appropriate deadlines.

vii. Spill prevention and response procedures (See Part 1.3.5 and Part 2.3).

The requirements in Part 7.2.6.b.vii provide the operator an opportunity to develop a response plan for preventing spills from occurring and, if they do occur, a plan for responding to them in order to minimize the potential discharge of any pollutants from the site. The documentation in the SWPPP of spill prevention and response procedures also will demonstrate to inspectors the operator's compliance with the spill prevention and response procedures of the Pollution Prevention procedures in Part 2.3 of the permit.

Part 7.2.6.b.vii	Permit Requirements
The operator must include the following in its SWPPP:	

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| (a) | Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and |
| (b) | Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with Part 2.3.6 and established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available to all employees. |
| (c) | The operator may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that the operator keep a copy of that other plan onsite. |

This requirement corresponds to Part 7.2.11.1 from the 2012 CGP (spill prevention and response procedures).

viii. Waste management procedures (See Part 2.3.3).

The requirement in Part 7.2.6.b.viii will allow operators the opportunity to develop procedures for waste management, and provide documentation to inspectors demonstrating compliance with the pollution prevention requirements relating to the management of construction wastes.

Part 7.2.6.b.viii	Permit Requirements
The operator must describe procedures it will follow for handling, storing, and disposing of all wastes generated at its site consistent with all applicable federal, state, tribal, and local requirements, including clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.	

This requirement corresponds to Part 7.2.11.2 from the 2012 CGP (waste management procedures).

ix. Application of fertilizers (See Part 2.3.5).

The requirement in Part 7.2.6.b.ix ensures documentation in the SWPPP when the operator applies fertilizers at a rate, in an amount, at a time or in another manner that is a departure from the manufacturer specifications. This may be necessary in some limited circumstances, and Part 7.2.6.b.ix requires the operator to document these departures from manufacturer specifications.

Part 7.2.6.b.ix	Permit Requirements
The operator must document any departures from the manufacturer specifications where appropriate.	

This requirement corresponds to Part 7.2.7.2 from the 2012 CGP (construction site pollutants).

Part 7.2.7: Procedures for Inspection, Maintenance, Corrective Action

Part 7.2.7 requires SWPPP documentation of the procedures that will be employed to meet the permit's inspection, maintenance, and corrective action requirements.

Part 7.2.7	Permit Requirements
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The SWPPP must describe the procedures that will be followed for maintaining stormwater control measures, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Parts 2.1.4, Part 4, and Part 5 of the permit. The following information must also be included in the SWPPP:

- a. The inspection schedule the operator will be following, which is based on whether the site is subject to Part 4.2 or Part 4.3, and whether the site qualifies for any of the allowances for reduced inspection frequencies in Part 4.4.
- b. If the operator will be conducting inspections in accordance with the inspection schedule in Part 4.2.2, Part 4.3, or Part 4.4.2, the location of the rain gauge or the address of the weather station the operator will be using to obtain rainfall data.
- c. If the operator will be reducing the inspection frequency in accordance with Part 4.4.2, the beginning and ending dates of the seasonally defined arid period for the area or the valid period of drought.
- d. If the operator will be reducing the inspection frequency in accordance with Part 4.4.3, the beginning and ending dates of frozen conditions on the site; and
- e. Any inspection or maintenance checklists or other forms that will be used.

The requirements in Part 7.2.7 will allow operators the opportunity to develop and document their procedures for inspections, maintenance activities, and corrective actions, and allow operators to demonstrate their compliance with the permit requirements corresponding to this documentation.

Part 7.2.8: Staff Training

Part 7.2.8 requires the SWPPP to include documentation on the training it conducted pursuant to Part 6 of the permit.

Part 7.2.8	Permit Requirements
The SWPPP must include documentation that the required personnel were trained in accordance with Part 6.	

Part 7.2.9: Documentation of Compliance with Other Requirements

Part 7.2.9 requires operators to include in the SWPPP documentation for compliance with the following other requirements:

a. *Threatened and Endangered Species Protection.*

Part 7.2.9.a specifies what Endangered Species Act documentation must be kept with the SWPPP.

Part 7.2.9.a	Permit Requirements
The SWPPP must include documentation required by Appendix D supporting the operator's eligibility with regard to the protection of threatened and endangered species and critical habitat.	

The permit requires documentation with regard to endangered species in Part 7.2.9.a to provide the operator the opportunity to document their compliance with Appendix D of the permit, and to provide anyone who inspects the SWPPP the opportunity to review such compliance.

b. *Historic Properties.*

Part 7.2.9.b specifies what historic property documentation must be kept with the SWPPP.

Part 7.2.9.b	Permit Requirements
The SWPPP must include documentation required by Appendix E supporting the operator's eligibility with regard to the protection of historic properties.	

The permit requires documentation with regard to historic properties in Part 7.2.9.b to provide the operator the opportunity to document their compliance with the screening process in Appendix E.

c. Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls.

Part 7.2.9.c specifies what UIC documentation must be kept with the SWPPP.

Part 7.2.9.c	Permit Requirements
If the operator is using any of the following stormwater controls at the site, the operator must document any contact with the applicable state agency or EPA Regional Office responsible for implementing the requirements in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR Parts 144 – 147. Such controls would generally be considered Class V UIC wells: i. Infiltration trenches (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system); ii. Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow; and iii. Drywells, seepage pits, or improved sinkholes (if stormwater is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).	

The permit requires documentation with regard to underground injection wells in Part 7.2.9.c to make operators aware of and to provide operators the opportunity to document their compliance with the Safe Drinking Water Act requirements for underground injection wells. For state UIC program contacts, refer to the following EPA website: <https://www.epa.gov/uic>.

Part 7.2.10: SWPPP Certification

Part 7.2.10 establishes the certification requirements for the SWPPP.

Part 7.2.10	Permit Requirements
The operator must sign and date the SWPPP in accordance with Appendix I, Part I.11.	

This requirement is consistent with standard NPDES permit conditions described in 40 CFR 122.22 and is intended to ensure that the operator understands their responsibility to create and maintain a complete and accurate SWPPP. Operators must appoint an authorized representative consistent with the regulations. Therefore, if a facility feels it is more appropriate for a member of the stormwater team to sign the documentation, that option is available under the permit. The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

Part 7.2.11: Post-Authorization Additions to SWPPP

Part 7.2.11 specifies the documents that must be included in the SWPPP following authorization to discharge.

Part 7.2.11	Permit Requirements
The operator must include the following documents as part of the SWPPP once the operator is notified of coverage under this permit: a. A copy of the NOI submitted to EPA along with any correspondence exchanged with EPA related to coverage under this permit; b. A copy of the acknowledgment letter the operator received from the NeT assigning the NPDES ID (i.e., permit tracking number); and c. A copy of this permit (an electronic copy easily available to the stormwater team is also acceptable).	

Part 7.2.11 will assist facility personnel and EPA (and other agency) inspectors in determining that the construction site has been authorized for permit coverage.

Part 7.3: On-Site Availability of the SWPPP

Part 7.3 instructs the operator on the requirements for retaining the SWPPP on-site.

Part 7.3	Permit Requirements
The operator must keep a current copy of the SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by EPA; a state, tribal, or local agency approving stormwater management plans; the operator of a storm sewer system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) (known together as "the Services"). EPA may provide access to portions of the SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public but may not be withheld from EPA, USFWS, or NMFS. (Note: Information covered by a claim of confidentiality will be disclosed by EPA only to the extent of, and by means of, the procedures set forth in 40 CFR Part 2, Subpart B. In general, submitted information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with implementing the CWA. The authorized representatives, including employees of other executive branch agencies, may review CBI during the course of reviewing draft regulations.) If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of the operator's construction site.	

Part 7.3 requires operators to retain copies of their SWPPP on site, and to make the document available to EPA or the Services immediately upon request. If a member of the public wishes to have access to the non-CBI portions of the operator's SWPPP, they must first contact EPA. EPA may require that a copy be sent to the agency so that it can be provided to the requestor. The mechanism for providing EPA with a copy of the SWPPP is at the discretion of the operator (e.g., web-based, hard copy), though EPA strongly encourages that SWPPPs be provided electronically.

Part 7.4: Required SWPPP Modifications

Part 7.4.1: List of Conditions Requiring SWPPP Modification

Part 7.4.1 sets out the conditions requiring the SWPPP to be modified.

Part 7.4.1	Permit Requirements
The operator must modify the SWPPP, including the site map(s), within seven (7) days of any of the following conditions: a. Whenever new operators become active in construction activities on the site, or changes are made to the construction plans, stormwater controls, or other activities at the site that are no longer accurately reflected in the SWPPP. This includes changes made in response to corrective actions triggered under Part 5. The operator is not required to modify the SWPPP if the estimated dates in Part 7.2.3.f change during the course of construction; b. To reflect areas on the site map where operational control has been transferred (and the date of transfer) since initiating permit coverage; c. If inspections or investigations by EPA or its authorized representatives determine that SWPPP modifications are necessary for compliance with this permit; d. Where EPA determines it is necessary to install and/or implement additional controls at the operator's site in order to meet the requirements of this permit, the following must be included in the SWPPP: - i A copy of any correspondence describing such measures and requirements; and - ii A description of the controls that will be used to meet such requirements. e. To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater controls implemented at the site; and f. If applicable, if a change in chemical treatment systems or chemically-enhanced stormwater controls is made, including use of a different treatment chemical, different dosage, or different area of application.	

The requirement in Part 7.4.1 to maintain a modified SWPPP under any of the conditions listed above provides assurance that the SWPPP will be updated to accurately reflect the conditions on the construction site. It is important that the SWPPP be accurate in terms of changes to construction plans, stormwater controls, changes in operational control, and other important changes on the site, so that the facility personnel have access to a SWPPP that is current, and so that inspectors are provided with accurate site information for compliance purposes.

To improve clarity, EPA moved the deadline requirement of SWPPP revisions within 7 days from Part 7.4.2 of the 2012 CGP and to Part 7.4.1. The requirement that any SWPPP revisions be completed within 7 days will ensure that any necessary revisions made to the SWPPP are incorporated in a timely manner so that the SWPPP is kept up to date.

Part 7.4.2: SWPPP Modification Records

Part 7.4.2 requires the operator to maintain a record of all SWPPP modifications.

Part 7.4.2	Permit Requirements
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The operator must maintain records showing the dates of all SWPPP modifications. The records must include the name of the person authorizing each change (see Part 7.2.10) and a brief summary of all changes.

The requirement to maintain a record of all SWPPP modifications is to ensure that a record of all of the changes to the SWPPP is kept. Keeping a record of such changes will help facility personnel to stay current with the changes that have been made to the SWPPP, and will allow inspectors to determine if appropriate modifications were made to the SWPPP under the required circumstances.

Part 7.4.3: Certification Requirements

Part 7.4.3 establishes the certification requirement for SWPPP modifications, as follows:

Part 7.4.3	Permit Requirements
All modifications made to the SWPPP consistent with Part 7.4 must be authorized by a person identified in Appendix I, Part I.11.b.	

The requirement that the SWPPP and all modifications be authorized by a person identified in Appendix I, Part I.11.b is consistent with standard NPDES permit conditions described in 40 CFR 122.22 and is intended to ensure that the operator certifies any SWPPP modifications. As described in the fact sheet for Part 7.2.10, operators are allowed to appoint an authorized representative consistent with the regulations. Therefore, if an operator feels it is more appropriate for a member of the stormwater team to sign the documentation, that option is available under the permit. The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

Part 7.4.4: Required Notice to Other Operators

Part 7.4.4 specifies the notice requirement for other operators when the SWPPP is modified.

Part 7.4.4	Permit Requirements
Part 7.4.4 requires operators, upon determining that a modification of the SWPPP is required, if there are multiple operators covered under the permit, to immediately notify any operators who may be impacted by the change to the SWPPP.	

The requirement in Part 7.4.4 ensures that any other operators covered under the permit are kept up to date on the SWPPP so that they can comply with the modifications to the pollution prevention plan.

Part 8: How to Terminate Coverage

Part 8 details the requirements that must be met before an operator of a construction project may be authorized to terminate coverage under the permit. Part 8 reminds the operator that until permit coverage is terminated, the operator must comply with all conditions and effluent limitations in the permit. Permit coverage is not terminated until EPA has received a complete and accurate NOT, certifying that the requirements for termination in Part 8 are met.

Part 8.1: Minimum Information Required in NOT

Part 8.1 lists the minimum information that must be provided in the NOT. The minimum information includes the following:

Part 8.1 (8.1.1 – 8.1.5)	Permit Requirements
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|--------------|---|
| 8.1.1 | NPDES ID (<i>i.e.</i> , permit tracking number) provided by EPA when the operator received coverage under this permit; |
| 8.1.2 | Basis for submission of the NOT (see Part 8.2); |
| 8.1.3 | Operator contact information; |
| 8.1.4 | Name of site and address (or a description of location if no street address is available); and |
| 8.1.5 | NOT certification. |

The requirements in Part 8.1 inform operators of the information that must be included in their NOT. The required information facilitates prompt processing of NOTs and provides assurance that operators have a valid basis for terminating.

EPA notes that the NPDES permit tracking number is not the same number that was reported on the NOI form. The NOI contains the "NPDES permit number" as identified in the CGP (e.g., NHR100000) while the "NPDES permit tracking number" is that number provided by EPA's NPDES eReporting Tool (NeT) acknowledging receipt of a complete NOI. The permit tracking numbers are assigned sequentially as NOIs are received by the NeT (e.g., NHR1000001, NHR1000002, NHR1000003, etc.).

Part 8.2: Conditions for Terminating Permit Coverage

Part 8.2 describes the triggering conditions for terminating permit coverage. These conditions are as follows:

Part 8.2 (8.2.1 – 8.2.3) Permit Requirements	
8.2.1	The operator has completed all construction activities at the site and, if applicable, construction support activity areas covered by this permit (see Part 1.2.1.c), and the operator has met the following requirements: a. For any areas that (1) were disturbed during construction, (2) are not covered over by permanent structures, and (3) over which the operator had control during the construction activities, the operator has met the requirements for final vegetative or non-vegetative stabilization in Part 2.2.14.b; b. The operator has removed and properly disposed of all construction materials, waste and waste handling devices, and has removed all equipment and vehicles that were used during construction, unless intended for long-term use following termination of permit coverage; c. The operator has removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following termination of permit coverage or those that are biodegradable; and d. The operator has removed all potential pollutants and pollutant-generating activities associated with construction, unless needed for long-term use following termination of permit coverage; or
8.2.2	The operator has transferred control of all areas of the site for which the operator is responsible under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit; or
8.2.3	Coverage under an individual or an alternative general NPDES permit has been obtained.

The requirements in Part 8.2 provide operators a list of all of the conditions for terminating permit coverage. These conditions must be satisfied before an NOT can be filed and permit coverage terminated. EPA notes that the conditions for terminating permit coverage in Part 8.2 are the same as in Part 8.2 of the 2012 CGP.

Part 8.3: How to Submit Your NOT

Part 8.3 describes the process for submitting an NOT. This section also provides information about EPA's NPDES eReporting Tool, or "NeT."

Part 8.3	Permit Requirements
The electronic NOT form the operator must complete is found at https://www.epa.gov/npdes/stormwater-discharges-construction-activities#ereporting . The operator will use their NPDES permit tracking number (i.e., the EPA number assigned upon authorization under the permit) to prepare the fillable NOT form, which ensures that EPA properly records your termination of coverage. An operator may request a waiver from electronic reporting if they meet one of the requirements specified in Part 1.4.1. If the EPA Regional Office grants approval to use a paper NOT for an operator requesting a waiver from electronic reporting, they must complete the form in Appendix K.	

In Part 8.3, EPA requires that operators file an electronic NOT to notify EPA that it has met the conditions for terminating permit coverage under Part 8.2. EPA has made use of an electronic reporting system for the past four CGPs. Due to the expansion in internet availability, greater efficiency in administrative processing, and reductions in cost to manage the system as compared to paper NOTs, it is required that the NeT system be the primary mechanism by which operators of construction projects obtain permit coverage and submit an NOT. If the operator requests a waiver from electronic reporting as specified in Part 1.4.1 and the EPA Regional Office grants approval to use of a paper NOT in Appendix K, then operators may submit a paper NOT to the Regional Office.

Part 8.4: Deadline for Submitting NOTs

Part 8.4 provides the operator with a deadline for when the NOT must be submitted following the occurrence of any of the triggering conditions in 8.2. The deadline is as follows:

Part 8.4	Permit Requirements
Part 8.4 requires that the NOT be submitted within 30 calendar days after any one of the triggering conditions listed in Part 8.2 occur.	

The purpose of requiring a deadline for filing an NOT is to ensure that operators do not remain covered under the CGP for a long period of time after reaching the conditions for permit termination.

Part 8.5: Effective Date of Termination of Coverage

Part 8.5 specifies to operators when their permit termination will become effective and therefore when they will no longer responsible for complying with the permit.

Part 8.5	Permit Requirements
The operator's authorization to discharge under this permit will terminate at midnight of the day that a complete NOT is submitted to EPA.	

If EPA determines that the NOT is incomplete or the operator has not satisfied one or more of the conditions in Part 8.2 for being able to submit a NOT, then the NOT will not be valid, and the operator must continue to comply with the conditions of the permit.

Part 9: Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories

Section 401 of the CWA (See also 40 CFR §122.44(d)(3) and §124.53(a)) provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State/Tribe in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The states, Indian Country lands, and U.S. territories will document the completion of their Section 401 certifications for this permit in this section.

VIII. Appendices

Appendix A: Definitions and Acronyms

Appendix A of the permit includes definitions of terms and a list of acronyms used throughout the permit. Appendix A provides a reference tool for terms and acronyms used throughout the permit.

The following terms are defined in the 2017 CGP:

1. "Action Area"
2. "Agricultural Land"
3. "Antidegradation Policy" or "Antidegradation Requirements"
4. "Arid Areas"
5. "Bank"
6. "Bluff"
7. "Borrow Areas"
8. "Business Day"
9. "Bypass"
10. "Cationic Treatment Chemical"
11. "Commencement of Construction Activities"
12. "Common Plan of Development or Sale"
13. "Construction Activities"
14. "Construction and Development Effluent Limitations and New Source Performance Standards"
15. "Construction Site" or "Site"
16. "Construction Support Activity"
17. "Construction Waste"
18. "Conveyance Channel"
19. "Critical Habitat"
20. "CWA"
21. "Dewatering"
22. "Discharge"

23. "Discharge of a Pollutant"
24. "Discharge Point"
25. "Discharge-Related Activity"
26. "Discharge to an Impaired Water"
27. "Domestic Waste"
28. "Drainageway"
29. "Drought-Stricken Area"
30. "Earth-Disturbing Activity"
31. "Earth-Disturbing Activities Conducted Prior to Active Mining Activities"
32. "Effective Operating Condition"
33. "Effluent Limitations"
34. "Effluent Limitations Guideline" (ELG)
35. "Eligible"
36. "Emergency-Related Project"
37. "Endangered Species"
38. "Excursion"
39. "Existing Site"
40. "Exit Points"
41. "Exposed Soils"
42. "Federal Operator"
43. "Final Stabilization"
44. "General Contractor"
45. "Hazardous Substances" or "Hazardous or Toxic Waste"
46. "Historic Property"
47. "Impaired Water"
48. "Impervious Surface"
49. "Indian Country" or "Indian Country Lands"
50. "Infeasible"
51. "Install" or "Installation"
52. "Intermittent (or Seasonal) Stream"
53. "Jar test"
54. "Landward"
55. "Large Construction Activity"
56. "Linear Construction Site"
57. "Minimize"

- 58. "Mining Activity"
- 59. "Mining Operations"
- 60. "Municipal Separate Storm Sewer System" or "MS4"
- 61. "National Pollutant Discharge Elimination System" (NPDES)
- 62. "Native Topsoil"
- 63. "Natural Buffer"
- 64. "Natural Vegetation"
- 65. "New Operator of a Permitted Site"
- 66. "New Site"
- 67. "New Source"
- 68. "New Source Performance Standards" (NSPS)
- 69. "Non-Stormwater Discharges"
- 70. "Non-Turbid"
- 71. "Notice of Intent" (NOI)
- 72. "Notice of Termination" (NOT)
- 73. "NPDES eReporting Tool" (NeT)
- 74. "Operational"
- 75. "Operator"
- 76. "Ordinary High Water Mark" "Permitting Authority"
- 77. "Point(s) of Discharge"
- 78. "Point Source"
- 79. "Pollutant"
- 80. "Pollution Prevention Controls"
- 81. "Polymers"
- 82. "Prohibited Discharges"
- 83. "Provisionally Covered Under this Permit"
- 84. "Qualified Person"
- 85. "Receiving Water"
- 86. "Run-On"
- 87. "Semi-Arid Areas"
- 88. "Shared Control"
- 89. "Small Construction Activity"
- 90. "Small Residential Lot"
- 91. "Snowmelt"
- 92. "Spill"

93. "Stabilization"
94. "Steep Slopes"
95. "Storm Sewer System"
96. "Stormwater"
97. "Stormwater Control"
98. "Stormwater Discharge Associated with Construction Activity"
99. "Stormwater Inlet"
100. "Stormwater Team"
101. "Storm Event"
102. "Storm Sewer"
103. "Subcontractor"
104. "SWPPP"
105. "Temporary Stabilization"
106. "Thawing Conditions"
107. "Threatened Species"
108. "Tier 2 Waters"
109. "Tier 2.5 Waters"
110. "Tier 3 Waters"
111. "Total Maximum Daily Load" or "TMDL"
112. "Toxic Waste"
113. "Treatment Chemicals"
114. "Turbidity"
115. "Uncontaminated Discharge"
116. "Upland"
117. "Upset"
118. "Water-Dependent Structures"
119. "Water Quality Standards"
120. "Waters of the United States"
121. "Wetland"
122. "Work Day"

The following acronyms were added to the list that appears in the 2012 CGP:

1. ACHP – Advisory Council on Historic Preservation
2. BMP – Best Management Practice
3. CBI – Confidential Business Information
4. CZMA – Coastal Zone Management Act

5. ECHO – EPA Enforcement and Compliance History Online
6. ELG – Effluent Limitations Guideline
7. FR – Federal Register
8. NEPA – National Environmental Policy Act
9. NeT – NPDES eReporting Tool
10. NHPA – National Historic Preservation Act
11. NSPS – New Source Performance Standards
12. ONRW – Outstanding National Resource Water
13. PAM – Polyacrylamide
14. RUSLE – Revised Universal Soil Loss Equation
15. SDS – Safety Data Sheet
16. SHPO – State Historic Preservation Office
17. THPO – Tribal Historic Preservation Office
18. TSS – Total Suspended Solids
19. UIC – Underground Injection Control
20. USDA – United States Department of Agriculture
21. USFWS – United States Fish and Wildlife Service

EPA notes that it has changed the terms "new project," "existing project," and "new operator of a new or existing project" in the 2012 CGP to "new site," "existing site," and "new operator of a permitted site" in the 2017 CGP. The meaning of these terms has not changed. EPA previously used both "project" and "site" in the 2012 CGP and for consistency and clarity is now using "site" in the permit.

The terms "catchment," "chemical treatment system," "commencement of pollutant-generating activities," "corrective action," "eNOI," "level spreader," "native vegetation," "outfall," "pollutant-generating activities," and "surface water" were removed from Appendix A for the 2017 CGP because these terms were either not used in the permit, were already covered under another definition, or were already well defined in the permit. EPA added definitions for "earth-disturbing activities conducted prior to active mining activities," "mining activity," "mining operations", and "shared control." EPA also notes that it has added several acronyms to ensure that every acronym that appears in the permit also appears in Appendix A.

Appendix B: Permit Areas Eligible for Coverage and EPA Regional Addresses

Appendix B specifies in what areas of the country the permit would apply and EPA Regional Office addresses, and includes specific corresponding permit numbers. EPA added additional permit numbers for all areas of Indian country that are not already covered by an EPA-approved permitting program.

Appendix C: Small Construction Waivers and Instructions

Appendix C provides information to construction operators on the availability of permit waivers for rainfall erosivity (App. C, Sec. A), TMDLs (App. C, Sec. B), and equivalent analysis (App. C, Sec. C).

Appendix D: Eligibility Procedures Relating to Threatened and Endangered Species Protection

Appendix D specifies the eligibility criteria related to the protection of endangered and threatened species and critical habitat. Each operator must certify that they have met one of the 6 eligibility criteria.

Operators who cannot certify to one of the endangered species eligibility criteria are not eligible to submit an NOI to gain coverage under the CGP; instead they must apply to EPA for an individual NPDES permit. As appropriate, EPA will conduct ESA section 7 consultations when issuing individual permits. If there are concerns that CGP coverage for a particular facility may result in adverse effects to listed species or critical habitat, EPA may hold up discharge authorization until such concerns are adequately addressed. Regardless of an operator's eligibility certification under one of the six criteria, EPA may require an application for an individual permit on the basis of adverse effects to species or habitat.

Consistent with Section 7(a)(2) of the Endangered Species Act (ESA), EPA consulted with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), both collectively known as the "Services," regarding the 2017 CGP and ESA eligibility criteria. See, 50 CFR Part 402. Appendix D provides the eligibility language for determining which criterion operators may meet to ensure eligibility under the ESA-related provisions of the permit. As a result of consultation with FWS and NMFS, EPA made clarifying edits to the ESA eligibility criteria. The changes to the wording of the criteria do not change the content of the criteria or ask for new information but are intended to improve operators' understanding of the meaning of each criteria and also provide guidance on the appropriate documentation that would support the basis statement for each criteria.

The FWS and NMFS are responsible for developing and maintaining the list of protected species and critical habitat. Once listed as endangered or threatened, a species is afforded the full range of protections available under the ESA, including prohibitions on killing, harming or otherwise taking a species. In certain instances, the FWS or NMFS may establish a critical habitat for a threatened or endangered species as a means to further protect those species. Critical habitat is an area determined to be essential for the conservation of a species and need not be in an area currently occupied by the species. Some, but not all, listed species have designated critical habitat. Exact locations of such designated critical habitat are provided in the Services regulations at 50 CFR Parts 17 and 226.

Operators have an independent ESA obligation to ensure that any of their activities do not result in prohibited "take" of listed species. Section 9 of the ESA prohibits any person from "taking" a listed species, e.g., harassing or harming it, with limited exceptions. See ESA Sec 9; 16 U.S.C. §1538. This prohibition generally applies to "any person," including private individuals, businesses and government entities. Many of the requirements and procedures in the CGP to protect species may also assist operators in ensuring that their construction activities do not result in a prohibited take of species in violation of section 9 of the ESA. Operators who intend to undertake construction activities in areas that harbor endangered and threatened species may seek protection from potential "take" liability under ESA section 9 either by obtaining an ESA section 10 permit or by requesting coverage under an individual permit and participating in the section 7 consultation process with the appropriate FWS or NMFS office. Operators unsure of what is needed for such liability protection should confer with the appropriate Services.

Note that operators are required to comply with other applicable federal laws, including the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act.

Appendix E: Historic Property Screening Process

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal "undertakings" on historic properties that are listed on,

or eligible for listing on, the National Register of Historic Places. The term Federal "undertaking" is defined in the NHPA regulations to include a project, activity, or program under the direct or indirect jurisdiction of a Federal agency including those requiring a Federal permit, license or approval. See 36 CFR 800.16(y). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR 800.16(l).

EPA's issuance of the permit is a Federal undertaking within the meaning of the NHPA. To address any issues relating to historic properties in connection with issuance of the final permit, EPA has included a screening process in Appendix E for all prospective dischargers to follow to ensure that potential impacts of their covered activities on historic properties have been appropriately considered and addressed. Although individual applications for coverage under the general permit do not constitute separate Federal undertakings, the screening process and related NOI questions provide an appropriate site-specific means of addressing historic property issues in connection with EPA's issuance of the final permit.

Under the NHPA regulations, a determination that a Federal undertaking has no potential to cause effects on historic properties fulfills an agency's obligations under section 106 of the NHPA. See 36 CFR 800.3(a)(1). EPA has reason to believe that the vast majority of activities that will be authorized under the CGP will have no potential to cause effects on historic properties. EPA does not anticipate effects on historic properties from the pollutants in stormwater and allowable non-stormwater discharges from construction activities that will be covered under the permit. Thus, to the extent EPA's issuance of the general permit will authorize discharges of such constituents, confined to existing stormwater channels or natural drainage areas, the final permitting action does not have the potential to cause effects on historic properties. Additionally, where the site will not be installing stormwater controls that cause subsurface earth disturbance (see Step 1 of Appendix E for examples of these controls), EPA similarly finds that the issuance of the permit does not have the potential to cause effects on historic properties.

It is EPA's judgment that the permit may have some potential to cause effects on historic properties where the permit authorizes or requires the construction and/or installation of stormwater controls that involve subsurface disturbance. Where the operator has to disturb the land through the construction and/or installation of such controls, there is a possibility that artifacts, records, or remains associated with historic properties could be impacted. Therefore, if the operator is installing new stormwater controls to manage its stormwater that will involve subsurface ground disturbance, the operator must consider the potential for effects to historic properties and may need to contact the applicable State Historic Preservation Officer (SHPO), Tribal Historic Preservation Office (THPO), or other tribal representative, to determine the likelihood that these controls will impact historic properties. Refer to Appendix E, Steps 2 through 5.

Appendix F: List of Tier 3, Tier 2, and Tier 2.5 Waters

Appendix F provides a list of Tier 3, Tier 2, and Tier 2.5 waters to assist construction operators in determining eligibility for coverage under Parts 1.1, and in complying with any applicable antidegradation requirements in Part 3.2.

Appendix G: Buffer Requirements

Appendix G includes requirements and additional guidance for operators on how to establish the 50-foot buffer or satisfy one of the two other compliance alternatives described in Part 2.2.1.a, as well as how to qualify for and comply with the exceptions in Part 2.2.1.b.

Appendix G provides information to assist operators in complying with Part 2.2.1. This appendix was developed for the permit to help implement the C&D rule requirement at 40 CFR 450.21 (a)(6) to "provide and maintain natural buffers around waters of the United States ...

unless infeasible." In an effort to streamline the permit, much of the language on the buffer requirements from Part 2.1.2.1 of the 2012 CGP was moved to Appendix G for the 2017 permit.

Appendix H: 2-Year, 24-Hour Storm Frequencies

Appendix H provides a guide to operators to determine the volume of precipitation associated with their local 2-year, 24-hour storm event for operators who elect to provide storage for the calculated volume of runoff from a 2-year, 24-hour storm.

Appendix I: Standard Permit Conditions

Appendix I includes the standard NPDES permit conditions consistent with 40 CFR 122.41. No significant changes were made to the standard permit conditions.

As required by the 2015 amendments to the Federal Civil Monetary Penalties Inflation Adjustment Act ("2015 Act"), EPA issued the latest Penalty Inflation Rule on July 1, 2016 to adjust penalties for inflation that has accrued since the date the original penalty amount was enacted by Congress. Beginning January 15, 2017 and annually thereafter, the 2015 Act requires federal agencies to issue a new penalty inflation rule to reflect the amount of inflation that has occurred over the preceding year. Due to the annual changes that will be made to the statutory maximum penalties, EPA removed references to civil and administrative monetary penalties in Part I.1.2.2 and I.1.2.3 of Appendix I.

Appendix I contains a requirement that any person signing documents in accordance with Subsections I.11.1 or I.11.2 in accordance with the permit must include the certification statement available in Part I.11.4. This certification statement includes an additional sentence that, prior to the Vessel General Permit issued in December 2008, had not been included in previous EPA issued NPDES general permits. The sentence reads: "I have no personal knowledge that the information submitted is other than true, accurate, and complete." EPA believes this additional certification language is necessitated by the decision in *U.S. v. Robison*, 505 F.3d 1208 (11th Cir. 2007). In *Robison*, the Court of Appeals struck down the defendant's conviction for a false statement on the grounds that the certification language did not require him to have personal knowledge regarding the truth or falsity of the information submitted to EPA. Rather, the court reasoned that EPA's certification required the defendant to certify, in part, that he made an inquiry of the persons who prepared and submitted the information and based on that inquiry, the information was accurate to the best of his knowledge. The court further reasoned that there is no requirement in the certification that the person attest to his personal knowledge regarding the information submitted. The government had argued at trial that the defendant had personal knowledge that the facility had committed violations. As a result, EPA feels it is necessary to include language which clarifies that the signatory is certifying that he or she has no personal knowledge that the information submitted is other than true, accurate, and complete.

Appendix J: NOI Form and Instructions

Part 1.4.1 requires operators to use EPA's NPDES eReporting Tool (NeT) to prepare and submit NOIs. However, where an operator requests and receives approval from his/her EPA Regional Office, the operator will be authorized use the paper NOI form included in Appendix J.

The following modifications have been made in the NOI form:

- Clarified the waiver options for using a paper NOI;
- Removed the IRS Employer Identification Number (EIN). This is not a number EPA uses for any purpose;

- Latitude/Longitude information has to be reported in decimal degrees instead of one of three possible formats. This is consistent with the NPDES Electronic Reporting Rule. See 80 FR 64063.
- Added a question on type of construction site;
- Added a question on whether there will be demolition of any structure built or renovated before January 1, 1980;
- Added a question on whether the pre-development land use used for agriculture. Appendix A of the permit provides a definition of "agriculture land";
- Added a question requiring operators to confirm that they understand that the CGP only authorizes the allowable stormwater discharges in Part 1.2.1 and the allowable non-stormwater discharges listed in Part 1.2.2, and that any discharges not expressly authorized in the permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, state, or local authorities after issuance of the permit via any means, including the NOI to be covered by the permit, the SWPPP, during an inspection, etc. If any discharges requiring NPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.2.1 and 1.2.2 will be discharged, they must be covered under another NPDES permit. This is consistent with EPA's long-standing interpretation of the scope of this permit.
- Provided clarifying edits to the Endangered Species Protection criterion to improve operators' understanding of what each criteria means and what species need to be considered (both USFWS and NMFS species), and also to provide suggested examples of supporting documentation for the basis statements for each criteria.

In the draft CGP, EPA proposed adding a question on the latitude and longitude for all stormwater points of discharge at the site. The CGP already requires discharge point locations to be documented in the SWPPP site map (Part 7.2.4.g.i of this permit). EPA proposed requiring latitude and longitude information to be reported in the NOI to facilitate the identification of receiving waterbodies and their impairment status. The new electronic reporting system, the NPDES eReporting Tool (NeT), would use the reported latitude and longitude information for each point of discharge to automatically determine the receiving waters that the site discharges to and the receiving waters' impairment status, which would reduce the burden of operators having to separately look up and manually enter this information. Users could also manually input this information if they choose. Information on receiving water impairment status is readily accessible from the state or tribal integrated report/CWA section 303(d) lists of waters.

For the final 2017 CGP, EPA omitted the proposed question on the latitude and longitude for all stormwater points of discharge at the site. It is EPA's intent to include the question in a future Information Collection Request (ICR) and after it is approved, include it in the 2017 CGP NOI form.

Appendix K: NOT Form and Instructions

Part 8.3 requires the operator to use EPA's NPDES eReporting Tool (NeT) to prepare and submit the NOT when any of the conditions in 8.2 have been met. However, where the EPA Regional Office specifically authorizes the operator to use a paper NOT form, that operator must complete and submit the paper form included in Appendix K.

Appendix K also provides potential operators with an idea of what types of questions to anticipate when completing the NOT. The NOT form includes modified reasons for termination. These modifications were considered necessary to reflect the changes made to the conditions for terminating permit coverage in Part 8.2.

Appendix L: Suggested Format for Request for Chemical Treatment

Part 1.1.9 requires operators to notify the applicable EPA Regional Office in advance of submitting an NOI if the operator plans to add "cationic treatment chemicals" (as defined in Appendix A) to stormwater and/or authorized non-stormwater prior to discharge. The EPA Regional Office will authorize coverage under the permit after the operator has included appropriate controls and implementation procedures designed to ensure that its use of cationic treatment chemicals will not lead to an exceedance of water quality standards.

Appendix L provides a suggested format for notifying the operator's applicable EPA Regional Office about its intended use of cationic treatment chemicals. The addition of Appendix L to the permit is to help operators in providing the required information to their Regional Office in order to become eligible for permit coverage under Part 1.1.9.

